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NEW DELHI, SATURDAY, APRIL 4, 1992/CHITRA 15, 1914

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह दफ्तर संकलन के रूप में
रखा जा सके

Separate Paging is given to this Part in order that it may be filed as
a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)

PART II—Section 3—Sub-Section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किये गये सविधिक आदेश और अधिसूचनाएँ
Statutory Orders and Notifications Issued by the Ministries of the Government of India (other than
the Ministry of Defence)

गृह मंत्रालय

नई दिल्ली, 18 मार्च, 1992

नई दिल्ली, 20 मार्च, 1992

का.आ. 952.—अवैध प्रवासी (न्यायाधिकरणों द्वारा निर्धारण) अधिनियम, 1983 (1983 का 39) की धारा 15 की उप-धारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, अवैध प्रवासी (निर्धारण) अपीलिय न्यायाधिकरण जिसका गठन उस धारा की उप-धारा (1) के तहत किया गया था, के सदस्य श्री आर.एन. ठाकुर को एतद्वारा 6 अप्रैल, 1992 से उक्त न्यायाधिकरण का अध्यक्ष नियुक्त करती है।

[एफ.सं. 11012/62/87-एन.ई.-IV]

विनय शंकर, संयुक्त सचिव

MINISTRY OF HOME AFFAIRS

New Delhi, the 20th March, 1992

S.O. 952.—In exercise of the powers conferred by sub-section (4) of section 15 of the Illegal Migrants (Determination by Tribunals), Act, 1983 (39 of 1983), the Central Government hereby appoints, Shri R. N. Thakur, a Member of the Illegal Migrants (Determination) Appellate Tribunal established under sub-section (1) of that section, to be the president thereof with effect from the 6th April, 1992.

[F. No. 11012/62/87-NE-IV]
VINAY SHANKAR, Jt. Secy.

का.आ. 953.—प्रवैध प्रवासी (न्यायाधिकरणों द्वारा निर्धारण) अधिनियम, 1983 (1983 का 39) की धारा 15 की उप-धारा (3) के साथ पठित उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 6 अप्रैल, 1992 से, भारत सरकार, गृह मंत्रालय की दिनांक 26 जुलाई, 1985 की अधिसूचना सं. 11012/92/85-एन.ई.-IV में आगे और निम्नलिखित संशोधन करती है, अर्थात्

उक्त अधिसूचना में, “तीन सदस्यों” शब्दों के स्थान पर “दो सदस्यों” शब्द प्रतिस्थापित किए जायेंगे।

[एफ.सं. 11012/62/87-एन.ई.-IV]

विनय शंकर, संयुक्त सचिव

पाद टिप्पणी : मुख्य अधिसूचना का.आ.सं. 3741 दिनांक 10-8-85 के तहत प्रकाशित की गई थी तथा बाद में का.आ.सं. 2610 दिनांक 11-8-88 तथा का.आ.सं. 3044 दिनांक 14-12-91 के तहत संशोधित की गई थी।

New Delhi, the 18th March, 1992

S.O. 953.—In exercise of the powers conferred by sub-section (1) read with sub-section (3), of section 15 of the Illegal Migrants (Determination by Tribunals) Act, 1983 (39 of 1983), the Central Government hereby makes the following further amendment, with effect from the 6th April, 1992, in the notification of the Government of India in the Ministry of Home Affairs No. 11012/92/85-NE.IV, dated the 26th July, 1985 namely :—

In the said notification, for the words "three members", the words "two members" shall be substituted.

[F. No. 11012/62/87-NE.IV]
VINAY SHANKAR, Jt. Secy.

Foot Note : The principal notification was published vide S.O. No. 3741 dated 10-8-85 and subsequently amended vide S.O. No. 2610 dated 11-8-88 and S.O. 3044 dated 14-12-1991.

कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय

(कार्मिक और प्रशिक्षण विभाग)

आदेश

नई दिल्ली, 13 मार्च, 1992

का.आ. 954.—केन्द्रीय सरकार दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का 25) की धारा 6 के साथ पठित धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उत्तर प्रदेश राज्य की सहमति से (देखिए अधिसूचना/आदेश स यू-0116/91 सी.एक्स 7 तारीख 9 दिसम्बर 1991) दिल्ली विशेष पुलिस स्थापन के मदस्यों की अधिकारिता का विस्तार निम्नलिखित अपराधों के अन्वेषण के लिए संपूर्ण उत्तर प्रदेश राज्य पर करती है :—

(क) भारतीय दण्ड संहिता की धारा 120—ख, भ्रष्टाचार निवारण अधिनियम, 1947 की धारा 5(2) के साथ पठित धारा 5(1) और भारतीय दण्ड संहिता की धारा 477-क/436 के अधीन दण्डनीय अपराध;

(ख) और ऊपर वर्णित एक या एक से अधिक अपराधों के संबंध में या उनकी बाबत उनके प्रयत्न, दुष्प्रेरण और षड्यंत्र तथा सहायक कलेक्टर, सीमाशुल्क और केन्द्रीय उत्पाद-शुल्क, अधीक्षक केन्द्रीय उत्पाद-शुल्क और उत्तर प्रदेश शुगर कार्पोरेशन लिमिटेड की सिसवा बाजार की चीनी मिल के तत्कालीन महा प्रबन्धक श्री एच.पी. एस. भाटिया तथा (i) नेपाल के रास्ते पाकिस्तान और चीन को 1.20 करोड़ रुपये की चीनी की तस्करी (ii) तस्करी को छिपाने के विचार से वसूली प्रतिशतता को 'शून्य' दर्शित करते हुए लगभग चार मास तक चीनी के आंकड़ों को छल साधन द्वारा प्रस्तुत करने (iii) बुविनियोग को छिपाने के लिए चीनी मिल को आग

लगाने (iv) उपर्युक्त कण्ट में कनेक्टर और सहायक कलेक्टर केन्द्रीय उत्पाद-शुल्क डार अविधिमान्य परितोषण स्वीकार करने (v) ऊपर उल्लिखित सभी मामलों में सीमा-शुल्क और केन्द्रीय उत्पाद-शुल्क अधिकारी तथा चीनी मिल के अधिकारियों/कर्मचारीवृन्द के बीच षड्यंत्र के मामले में अन्य के विरुद्ध अधिकृत की बाबत वैसे तथ्यों से उद्भूत वैसे ही सहा-वहार के अनुक्रम में किया गया कोई अन्य अपराध/क्रिए गए कोई अन्य अपराध।

[संख्या 228/7/91/ए.सी.डी.-II]

ए.सी. शर्मा, अधर सचिव

MINISTRY OF PERSONNEL, P. G. AND PENSION
(Department of Personnel & Training)

ORDER

New Delhi, the 13th March, 1992

S.O. 954.—In exercise of the powers conferred by sub-section (1) of Section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of the State Government of Uttar Pradesh vide notification/order No. U-0116/91-CX-7 dated 9-12-91 hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Uttar Pradesh for the investigation of offences as here under :—

(a) Offences punishable under section 120-B IPC, Section 5(1)(d) r/w 5(2) of Prevention of Corruption Act, 1947 and section 477-A/436 IPC

(b) And their attempts abetments and conspiracies in relation to or in connection with one or more of the offences mentioned above and any other offence/offences committed in the course of the same transaction arising out of the same facts in regard to allegation against the Assistant Collector, Custom & Central Excise, the Superintendent, Central Excise and Shri H. P. S. Bhatia, the then General Manager of Siswa Bazar Unit Sugar Mill of U.P. State Corporation Ltd. and others in the matter of (i) smuggling of sugar worth Rs. 120 crores to Pakistan and China through Nepal (ii) Manipulation of production figures of the sugar mill for about four months by showing NIL recovery percentage with a view to cover up the smuggling (iii) setting fire to the sugar Mill to cover up the misappropriation (iv) Receipt of illegal gratification by the Collector and Assistant Collector Central Excise in the aforesaid scandal (v) conspiracy between the officers/staff of sugar mill with the Customs & Central Excise Officer in all the above mentioned matters.

[No. 228/7/91-AVD-II]

S. C. SHARMA, Under Secy.

वित्त मंत्रालय

(राजस्व विभाग)

नई दिल्ली, 7 जनवरी, 1992

(आयकर)

का.आ. 955.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खंड (23-ग) के उपखंड (V) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा "वि डायोसेस आफ करनल सोसायटी, करनल, को उक्त उपखंड के प्रयोजनार्थ कर-

निर्धारण वर्ष 1986-87 से 1988-89 तक के लिए अधिसूचित करती है।

[सं. 8974 (फा. सं. 197/108/85-आयकर नि.-1)]

एस. के. चटर्जी, विशेष कार्य अधिकारी

MINISTRY OF FINANCE
(Department of Revenue)

New Delhi, the 7th January, 1992

(INCOME-TAX)

S.O. 955.—In exercise of the powers conferred by sub-clause (v) of clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies "The Diocese of Kurnool Society, Kurnool" for the purpose of the said sub-clause for the assessment years 1986-87 to 1988-89.

[No. 8974 (F. No. 197/108/85-IT-A-I)]
S. K. CHATTERJEE, Officer on Special Duty

नई दिल्ली, 26 फरवरी, 1992

(आयकर)

का.आ. 956.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खण्ड (23-ग) के उपखंड (V) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा "हिन्दू सत्कार समिति, कलकत्ता" को कर-निर्धारण वर्ष 1992-93 से 1995-96 तक के लिए निम्नलिखित शर्तों से अधिसूचित रहते हुए उपखंड का प्रयोजनार्थ अधिसूचित करती है, अर्थात् :—

- (i) कर-निर्धारिणी इसकी आय का इस्तेमाल अथवा इसकी आय का इस्तेमाल करने के लिए इसका संचयन पूर्णतया तथा अनन्यतया उन उद्देश्यों के लिए करेगा, जिनके लिए इसकी स्थापना की गई है ;
- (ii) कर-निर्धारिणी उपर-उल्लिखित कर-निर्धारण वर्षों से संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 की उपधारा (5) में विनिर्दिष्ट किसी एक अथवा एक से अधिक ढंग अथवा तरीकों से भिन्न तरीकों से इसकी निधि (जैवर-जवाहरान, फर्नीचर आदि के रूप में प्राप्त तथा रख-रखाव में स्वेच्छिक अंशदान से भिन्न) का निवेश नहीं करेगा अथवा से जमा नहीं करवा सकेगा ;
- (iii) यह अधिसूचना किसी ऐसी आय के संबंध में लागू नहीं होगी, जोकि कारोबार से प्राप्त लाभ तथा अभिलाभ के रूप में हो जब तक कि ऐसा कारोबार उक्त-कर निर्धारिणी के उद्देश्यों की प्राप्ति के लिए प्रासंगिक नहीं हो तथा ऐसे कारोबार के संबंध में अलग से लेखा-पुस्तिकाएं नहीं रखी जाती हों।

[सं. 9004 (फा. सं. 197/206/91-आयकर नि.-1)]

शरत चन्द्र, अवर सचिव

New Delhi, the 26th February, 1992

(INCOME-TAX)

S.O. 956.—In exercise of the powers conferred by sub-clause (v) of clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies "Hindu Satkar Samiti, Calcutta" for the purpose of the said sub-clause for the assessment years 1992-93 to 1995-96 subject to the following conditions, namely:—

- (i) the assessee will apply its income, or accumulate it for application, wholly and exclusively to the objects for which it is established;
- (ii) the assessee will not invest or deposit its funds (other than voluntary contributions received and maintained in the form of jewellery, furniture etc.) for any period during the previous years relevant to the assessment years mentioned above otherwise than in any one or more of the forms or modes specified in sub-section (5) of section 11;
- (iii) this notification will not apply in relation to any income, being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business.

[No. 9004 (F. No. 197/206/91-IT-A-I)]
SHARAT CHANDRA, Under Secy.

आदेश

नई दिल्ली, 23 मार्च, 1992

का.आ. 957.—भारत सरकार के संयुक्त सचिव ने, जिसे विदेशी मुद्रा संरक्षण और तस्करी निवारण अधिनियम, 1974 (1974 का 52) की धारा 3 की उपधारा (1) के अधीन विशेष रूप से मशकत किया गया है, उक्त उपधारा के अधीन आदेश फा. सं. 673/125/91-सी.शु.-8 दिनांक 15-2-91 को यह निदेश जारी था कि श्री बी. सोमामुन्वरम पुत्र श्री वेलू गाउण्डर, नं. 1, रामासामी स्ट्रीट, मारुति नगर, राजा किलापक्कम, मद्रास-600073 को निरुद्ध कर लिया जाए और केन्द्रीय कारागार-मद्रास में अभिरक्षा में रखा जाए ताकि उसे तस्करी के मात को लाने से जाने का काम करने और तस्करी के मात को छिपाने अथवा रखने के अलावा तस्करी के मात का धन्धा करने से रोका जा सके ;

2. केन्द्रीय सरकार के पास यह विश्वास करने का कारण है कि पूर्वोक्त व्यक्ति फरार हो गया है या अपने को छिपा रहा है जिससे उक्त आदेश का निष्पादन नहीं हो सके ;

3. अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 7 की उपधारा (1) के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि पूर्वोक्त व्यक्ति इस आदेश के शासकीय राजपत्र में प्रकाशन के 7 दिन के भीतर पुलिस आयुक्त, मद्रास के समक्ष हजरि हो।

[फा.सं. 673/125/91-सी.शु.-8]

रा. देशिकान, अवर सचिव

ORDER

New Delhi, the 23rd March, 1992

S.O. 957.—Whereas the Joint Secretary to the Government of India, specially empowered under sub-section (1) of Section 3 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974) issued under F. No. 673/125/91-Cus. VIII dated 15-2-1991 under the said sub-section directing that Shri V. Somansundaram son of Velu Gounder, No. 1, Ramasamy Street, Maruti Nagar, Raja Kilappakam, Madras-600073 be detained and kept in custody in the Central Prison, Madras with a view to preventing him from engaging in transporting smuggled goods and dealing in smuggled goods otherwise than by engaging in concealing or keeping smuggled goods;

2. Whereas the Central Government has reasons to believe that the aforesaid person has absconded or is concealing himself so that the order cannot be executed;

3. Now, therefore, in exercise of power conferred by clause (b) of sub-section (1) of Section 7 of the said Act, the Central Government hereby directs the aforesaid person to appear before the Commissioner of Police, Madras within 7 days of the publication of this order in the Official Gazette.

[F. No. 673/125/91-Cus. VIII]
R. DESIKAN, Under Secy.

आदेश

नई दिल्ली, 23 मार्च, 1992

का.आ. : 958—भारत सरकार के संयुक्त सचिव ने, जिसे विदेशी मुद्रा संरक्षण और तस्करी निवारण अधिनियम, 1974 (1974 का 52) की धारा 3 की उपधारा (1) के अधीन विशेष रूप से सशक्त किया गया है, उक्त उपधारा के अधीन आदेश फा.सं. 673/595/89-सी.गु.-9 दिनांक 18-10-89 को यह निदेश जारी था कि श्री फुटरमल जैन पुत्र श्री उमेदमल जैन, 176, पोखवा मेन, चौथा ब्लॉक, जयनगर, बंगलौर को निरुद्ध कर लिया जाए और केन्द्रीय कारागार बंगलौर में अभिरक्षा में रखा जाए ताकि उसे तस्करी के माल को लाने ले जाने अथवा छिपाने अथवा रखने के अलावा तस्करी के माल का धन्धा करने से रोका जा सके

2. केन्द्रीय सरकार के पास यह विश्वास करने का कारण है कि पूर्वोक्त व्यक्ति फरार हो गया है या अपने को छिपा रहा है जिससे उक्त आदेश का निष्पादन नहीं हो सके;

3. अतः अब केन्द्रीय सरकार, उक्त अधिनियम की धारा 7 की उपधारा (1) के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि पूर्वोक्त व्यक्ति इस आदेश के शासकीय राजपत्र में प्रकाशन के 7 दिन के भीतर पुलिस आयुक्त, बंगलौर के समक्ष हाजिर हो।

[फा.सं. 673/595/89-सी.गु.-8]

रा. देशिकान, अवर सचिव

ORDER

New Delhi, the 23rd March, 1992

S.O. 958.—Whereas the Joint Secretary to the Government of India, specially empowered under sub-section (1) of Section 3 of the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (52 of 1974) issued under F. No. 673/595/89-Cus. VIII dated 18-10-1989 under the said sub-section directing that Shri Futermal Jain,

son of Umedmal Jain, 176, 5th Main, 4th Block, Jayanagar, Bangalore be detained and kept in custody in the Central Prison, Bangalore with a view to preventing him from dealing in smuggled goods otherwise than by engaging in transporting or concealing or keeping smuggled goods;

2. Whereas the Central Government has reasons to believe that the aforesaid person has absconded or is concealing himself so that the order cannot be executed;

3. Now, therefore, in exercise of power conferred by clause (b) of sub-section (1) of Section 7 of the said Act, the Central Government hereby directs the aforesaid person to appear before the Commissioner of Police, Bangalore within 7 days of the publication of this order in the Official Gazette.

[F. No. 673/595/89-Cus. VIII]
R. DESIKAN, Under Secy.

(आर्थिक कार्य विभाग)

(बैंकिंग प्रभाग)

नई दिल्ली, 17 मार्च, 1992

का.आ. 959—राष्ट्रीयकृत बैंक (प्रबंध तथा प्रकीर्ण उपबंध) स्कीम, 1970 के खण्ड 9 के उपखण्ड (2) के साथ पठित खण्ड 3 के उपखण्ड (ख) (1) के अनुसरण में, केन्द्रीय सरकार, एतद्वारा, श्री लक्ष्मन शंकर वैद्य, विशेष सहायक, बैंक आफ महाराष्ट्र, महाद्वार मार्ग शाखा, कोहलापुर को दिनांक 17-3-1992 से 16-3-1995 तक तीन वर्ष की अवधि के लिये या जब तक वे बैंक आफ महाराष्ट्र के एक कर्मचारी के रूप में अपनी सेवा छोड़ नहीं देते हैं, इनमें से जो पहले हो श्री तंगारे सुरेश भागुजी, जो भारत सरकार, वित्त मंत्रालय, आर्थिक कार्य विभाग (बैंकिंग प्रभाग) की अधिसूचना सं. एक. 15/5/82-आईआर दिनांक 1 जुलाई, 1987 के अनुसरण में नियुक्त किये गये थे, के स्थान पर बैंक आफ महाराष्ट्र के निदेशक बोर्ड में निदेशक नियुक्त करती है

[संख्या 15/9/91-आई आर]

सतपाल भाटिया, अवर सचिव

(Department of Economic Affairs)

(Banking Division)

New Delhi, the 17th March, 1992

SO. 959.—In pursuance of sub-clause (b)(1) of Clause 3 read with sub-clause (2) of Clause 9 of the Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1970, the Central Government hereby appoints Shri Laxman Shankar Vaidya, Special Assistant, Bank of Maharashtra, Mahadwar Road Branch, Kohlapur as a Director on the Board of Directors of Bank of Maharashtra for a period of 3 years with effect from 17th March, 1992 to 16th March, 1995 or until he ceases to be an employee of Bank of Maharashtra whichever is earlier vice Shri Nangare Suresh Bhaguji appointed vide Notification of Government of India, Ministry of Finance, Department of Economic Affairs (Banking Division) No. F. 15/5/82-IR dated 1st July, 1987.

[No. F. 15/9/91-IR]
S. P. BHATIA, Under Secy.

नई दिल्ली, 17 मार्च, 1992

का.आ. 960 :—भारतीय औद्योगिक विकास बैंक अधिनियम, 1964 (1964 का 18) की धारा 6 की उपधारा 4 और (4-क) के साथ पठित उपधारा (1) के खण्ड (ग) के उपखण्ड (iii) के अनुसरण में केन्द्रीय सरकार एनडू द्वारा भारतीय औद्योगिक विकास बैंक और वित्तीय संस्थाओं के अधिकारों/कर्मचारियों में से भारतीय जोनल बीमा निगम, उत्तरी जोन कार्यालय, नई दिल्ली के जोनल प्रबन्धक श्री एस.पी. सुबेदार को 17 मार्च, 1992 से शुरू होकर और 16 मार्च, 1995 को समाप्त होने वाली तीन वर्ष की अवधि के लिए भारतीय औद्योगिक विकास बैंक के निदेशक के रूप में नामित करती है।

[सं. एफ 7/5/91-बी.ओ.-1]

एम.एस. सीतारामन, अव्वर सचिव

New Delhi, the 17th March, 1992

S.O. 960.—In pursuance of sub-clause (iii) of clause (c) of sub-section (1) read with sub-section (4) and (4A), of section 6 of the Industrial Development Bank of India Act, 1964 (18 of 1964), the Central Government hereby nominates Shri S. P. Subbedar, Zonal Manager, Northern Zonal Office, Life Insurance Corporation of India, New Delhi, as a director of the Industrial Development Bank of India, from amongst the officer employees of the Industrial Development Bank of India and financial institutions, for a period of three years commencing on 17th March, 1992 and ending with 16th March, 1995.

[No. F. 7/5/91-BO. I]

M. S. SEETHARAMAN, Under Secy.

(बीमा प्रभाग)

नई दिल्ली, 24 मार्च, 1992

का.आ. 961 :—बीमा नियम, 1939 का और संशोधन करने के लिए प्राल्प नियम, बीमा अधिनियम, 1938 (1938 का 4) की धारा 114 की उपधारा (1) की अपेक्षानुसार भारत सरकार के वित्त मंत्रालय, बीमा प्रभाग की अधिसूचना सं. का.आ. 1762 तारीख 11 जून, 1991 के अधीन भारत के राजपत्र, भाग 2, खंड-3 उपखंड (ii), तारीख 22 जून, 1991 के पृष्ठ 2644 पर प्रकाशित किए गए थे जिसमें 22 जून, 1991 से साठ दिन की अवधि के अवसान तक ऐसे व्यक्तियों के आक्षेप या सुझाव मांगे गए थे, जिनके उनमें प्रभावित होने की संभावना थी;

और उक्त राजपत्र की प्रतियां जनता को विक्रय हेतु 3 जुलाई, 1991 को उपलब्ध करा दी गई थीं;

और उक्त प्राल्प के संबंध में कोई आक्षेप या सुझाव जनता से प्राप्त नहीं हुए हैं;

अतः केन्द्रीय सरकार उक्त अधिनियम की उपधारा (2) के खंड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए बीमा नियम, 1939 का और संशोधन करने के लिए निम्नलिखित नियम बनाती है, अर्थात् :—

1. (1) इन नियमों का संक्षिप्त नाम बीमा (संशोधन) नियम, 1992 है।

(2) ये राजपत्र में प्रकाशन की तारीख को प्रवृत्त होंगे।

2. बीमा नियम, 1939 के नियम 3 में,—

(क) “या स्काटलैंड में बीमांकक संकाय का अधपना” शब्दों के पश्चात् “या भारतीय बीमांकक सोसाइटी का अधपना” शब्द अन्तःस्थापित किए जाएंगे; और

(ख) परन्तुक में, “या ऐसे बीमांकक संकाय का” शब्दों के पश्चात् “या ऐसी बीमांकक सोसाइटी का” शब्द अन्तःस्थापित किए जाएंगे।

[फा.सं. 81 (2) बीमा-II/89]

जी.सी. बसुमातारी, उप सचिव

INSURANCE DIVISION

New Delhi, the 24th March, 1992

S.O. 961.—Whereas draft rules further to amend the Insurance Rules, 1939, were published as required by sub-section (1) of section 114 of the Insurance Act, 1938 (4 of 1938), at page 2644 of the Gazette of India, Part II, Section 3, Sub-section (ii) dated the 22nd June, 1991 under the notification of the Government of India in the Ministry of Finance, Insurance Division No. S.O. 1762, dated the 11th June, 1991, inviting objections or suggestions from any person likely to be affected thereby, till the expiry of 60 days from the 22nd June, 1991;

And whereas the said Gazette was made available for public sale on 3rd July, 1991;

And whereas no objections or suggestions on the said draft rules have been received from the public;

Now, therefore, in exercise of the powers conferred by clause (a) of sub-section (2) of the said Act, the Central Government hereby makes the following rules further to amend the Insurance Rules, 1939, namely :—

1. (1) These rules may be called the Insurance (Amendment) Rules, 1992.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In rule 3 of the Insurance Rules, 1939,—

- (a) after the Words "or a Fellow of the Faculty of Actuaries in Scotland", the words "or a Fellow of the Actuarial Society of India" shall be inserted; and
- (b) in the proviso, after the words "or of such Faculty of Actuaries," the words "or of such Actuarial Society" shall be inserted.

[F. No. 81(2)/Ins II/89]

G. C. BASUMATARI, Dy. Secy.

(वैकिंग प्रभाग)

नई दिल्ली, 24 मार्च, 1992

का.आ. 962 :—राष्ट्रीयकृत बैंक (प्रबन्ध और प्रकीर्ण उपबन्ध) स्कीम 1970 के खण्ड 9 के साथ पठित खण्ड 3 के उप खण्ड (ग) के अनुसरण में केन्द्रीय सरकार, भारतीय रिजर्व बैंक से परामर्श करने के पश्चात्, एतद्वारा श्री के.वी. प्राचार्य, वरिष्ठ प्रबन्धक, ताम्बरम शाखा, इण्डियन ओवरसीज बैंक, मद्रास को 24 मार्च, 1972 से तीन वर्ष की अवधि के लिए या जब तक वे इंडियन ओवरसीज बैंक के एक अधिकारी के रूप में अपनी सेवा छोड़ नहीं देते हैं, इनमें से जो भी पहले हो, इंडियन ओवरसीज बैंक के निदेशक मण्डल में निदेशक के रूप में नियुक्त करती है।

[सं. एफ 9/4/91-बी.ओ.-1]

एम.एस. सीतारामन, अवसर सचिव

(Banking Division)

New Delhi, the 24th March, 1992

S.O. 962.—In pursuance of sub-clause (c) of clause 3 read with clause 9 of the Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1970, the Central Government, after consultation with Reserve Bank of India, hereby appoints Shri K. V. Acharya, Senior Manager, Tambaram Branch, Indian Overseas Bank, Madras, as a Director on the Board of Indian Overseas Bank with effect from the 24th March, 1992 for a period of three years or until he ceases to be an officer of Indian Overseas Bank, whichever is earlier.

[F. No. 9/4/91-BO.I]

M. S. SEETHARAMAN, Under Secy.

वाणिज्य मंत्रालय

(मुख्य निर्यात आयात-निर्यात का कार्यालय)

आदेश

नई दिल्ली, 14 फरवरी, 1992

का.आ. 963 :—मै. आयशर मोटर्स लि., धार (म.प्र.) को जापान से मूल्य पुनः निर्यात आधार पर कारखाने के बिना दो नग प्रोटोटाइप के आयात के लिए 4,62,000/- रुपये (चार लाख बासठ हजार) 42,77,660

जापानी येन का एक सीमाशुल्क निकासी परमिट सं. पी/जे/2044358 दिनांक 19-8-88 जारी किया गया था।

फर्म ने उपर्युक्त सीमाशुल्क निकासी परमिट की अनु-लिपि इस आधार पर जारी करने के लिए आवेदन किया है कि मूल सीमाशुल्क निकासी परमिट खो गया है या गुम हो गया है। यह भी कह गया है कि लाइसेंस (दोनों प्रतियां) को किसी सीमाशुल्क प्राधिकारी कांडला में पंजीकृत करवाया गया था और इस प्रकार लाइसेंस के मूल्य का पूर्णरूप से उपयोग किया गया है।

आने तर्क के मनर्जन में लाइसेंसधारी ने नोटरी पब्लिक, दिल्ली के समक्ष विधिवत शपथ लेकर स्टाम्प पेपर पर एक हलफनामा दाखिल किया है। तदनुसार मैं संतुष्ट हूं कि फर्म में मूल सीमाशुल्क निकासी परमिट सं. पी/जे/2044358 दिनांक 19-8-88 खो गया है या गुम हो गया है। यथा-संशोधित आयात (निर्यात) आदेश, 1955 दिनांक 7-12-1955 की उप धारा 9(गग) के अंतर्गत प्रदत्त अधिकारों का प्रयोग करते हुए उक्त सीमाशुल्क निकासी परमिट सं. पी/जे/2044358 दिनांक 19-8-88 को एतद्वारा निरस्त किया जाता है।

पार्टी को सीमाशुल्क निकासी परमिट की दूसरी प्रति अलग से जारी की जा रही है।

[सं. सीजी-1/390/7/88-89/544]

जोगिन्द्र सिंह, उप मुख्य निर्यात, आयात-निर्यात

MINISTRY OF COMMERCE

(Office of the Chief Controller of Imports and Exports)

ORDER

New Delhi, the 14th February, 1992

S.O. 963.—M/s. Eicher Motors Ltd., Dhar, M.P. were issued a Customs Clearance Permit No. P/J/2044358 dated 19-8-88 for import of 2 nos. of Prototype without road bodies for Rs. 4,62,000 (Four lakhs sixty two thousand)—Japanese Yen. 42,77,660 against re-export basis on free of cost from Japan.

The firm has applied for issue of Duplicate CCP of the above mentioned CCP on the grounds that the Original CCP has been lost or misplaced. It has further been stated that the Licence (both copies) was registered with any Customs Authority, Kandla and as such the value of Licence has been utilised fully.

In support of their contention, the licensee has filed an affidavit on stamped paper duly sworn in before a Notary Public, Delhi. Accordingly, I am satisfied that the original CCP No. P/J/2044358 dated 19-8-88 has been lost or misplaced by the firm. In exercise of the powers conferred under sub-clause 9(cc) of the Import (Control) Order, 1955 dated 7-12-1955 as amended the said CCP No. P/J/2044358 dated 19-8-88 is hereby cancelled.

A duplicate of CCP is being issued to the party separately.

[No. G. I/390/7/88-89/544]

JOGINDER SINGH, Dy. Chief Controller
of Imports & Exports

आदेश

नई दिल्ली, 16 मार्च, 1992

का.प्रा. 964 :—मै. सरमन फास्टेनर्स प्रा.लि., बी-22/एमआईडीसी, मुम्बई, ताल-कल्याण जिला श्रमण को मुक्त विदेशी मुद्रा के अंतर्गत सीएचबी-बोरान अलाय स्टील आयात करने के लिए 19,75,000/- रुपये (उन्नीस लाख और पचहत्तर हजार रुपये मात्र) का एक आयात लाइसेंस सं. पी/डी/2279553, दिनांक 28-3-90 मंजूर किया गया। फर्म ने उक्त लाइसेंस की विनिमय नियंत्रण प्रयोजन प्रति की अनुलिपि प्रति इस आधार पर जारी करने के लिए आवेदन किया है कि लाइसेंस की मूल विनिमय नियंत्रण प्रति खो गई है। यह भी बताया गया है कि लाइसेंस की विनिमय नियंत्रण प्रति को सीमाशुल्क प्राधिकारी, बम्बई से पंजीकृत कराया गया था और इस प्रकार सीमाशुल्क प्रयोजन प्रति पर 350,000/- रुपये का इस्तेमाल किया जा चुका है और 16,25,000/- रुपये का उपयोग करना बाकी है।

2. अपने तर्कों के समर्थन में, लाइसेंसधारी ने नोटरी पब्लिक, बम्बई के समक्ष विधिवत शपथ लेकर स्टाम्प पेपर पर एक हलफनामा दाखिल किया है। तदनुसार मैं संतुष्ट हूँ कि आयात लाइसेंस सं. पी/डी. 2279553 दिनांक 28-3-90 की मूल विनिमय नियंत्रण प्रति फर्म से खो गई है या गुम हो गई है। यथा संशोधित आयात (नियंत्रण) आदेश दिनांक 7-12-1955 की उपधारा 9(ग) के अंतर्गत प्रदत्त अधिकारों का प्रयोग करते हुए मै. सरमन फास्टेनर्स प्रा.लि. को जारी की गई उक्त विनिमय नियंत्रण प्रति सं. पी/डी/2279553 दिनांक 28-3-90 को एतद्वारा निरस्त किया जाता है।

3. पार्टी को उक्त लाइसेंस की एक दूसरी विनिमय नियंत्रण प्रति अलग से जारी की जा रही है।

[फा.सं. पूरक/एम-3/239/डीजीडीजी/एम-90/एमएलएस/2004]

माया दे. केम, उप मुख्य नियंत्रक, आयात-निर्यात

ORDER

New Delhi, the 16th March, 1992

S.O. 964.—M/s. Sarmon Fasteners Pvt. Ltd., B-22/A MIDC, Murbad, Tal-Kalyan, District Thane, were granted an import licence No. P/D/2279553 dated 28th March, 1990 for Rs. 19,75,000 (Rupees Nineteen lakhs and seventy five thousand only) for import of CHQ-Boron Alloy Steel under free foreign exchange.

The firm has applied for issue of Duplicate copy of Exchange Control purposes copy of the abovementioned licence on the ground that the original Exchange Control copy of the licence has been lost or misplaced. It has further been stated that the Exchange Control copy of the licence was registered with Customs Authority, Bombay and as such the value of Customs purposes copy has been utilised for Rs. 3,50,000 leaving balance of Rs. 16,25,000.

2. In support of their contention, the licensee has filed an affidavit on stamped paper duly sworn in before a Notary Public, Bombay. I am accordingly satisfied that the original Exchange Control copy of import licence No. P/D/2279553 dated 28th March, 1990 has been lost or misplaced by the firm in exercise of the powers conferred under sub-clause 9(cc) of the Import (Control) Order, 1955 dated 7th December, 1955 as amended the said original Exchange Control copy No. P/D/2279553 dated 28th March, 1990 issued to M/s. Sarmon Fasteners Pvt. Ltd., is hereby cancelled.

3. A duplicate Exchange Control copy of the said licence is being issued to the party separately.

[F. No. Suppl/5-3/239/DGTD/AM-90/SLS/2004]
MAYA D. KEM, Dy. Chief Controller of Imp. & Exp.

आदेश

नई दिल्ली, 17 मार्च, 1992

का.प्रा. 965 :—मै. मुरुगप्पा इलेक्ट्रॉनिक्स लि. 305, हेब्बल इण्डस्ट्रीज एरिया, मेटागल्ली, मैसूर-570016 को सामान्य मुद्रा क्षेत्र के अंतर्गत फिल्टर कार्टिज के 4800 नगों का आयात करने के लिए 2,75,000/- रुपये (दो लाख पचहत्तर हजार रुपये मात्र) का एक आयात लाइसेंस सं. पी/डी/2023702 दिनांक 4-10-91 मंजूर किया गया था।

फर्म ने उक्त लाइसेंस की सीमाशुल्क प्रयोजन प्रति की अनुलिपि इस आधार पर जारी करने के लिए आवेदन किया है कि लाइसेंस की मूल सीमाशुल्क प्रयोजन प्रति खो गई है या गुम हो गई है। यह भी बताया गया है कि लाइसेंस की सीमाशुल्क प्रयोजन प्रति को सीमाशुल्क प्राधिकारी, मद्रास से पंजीकृत किया गया था और इस प्रकार सीमाशुल्क प्रयोजन प्रति के मूल्य का आंशिक रूप में इस्तेमाल किया जा चुका है।

2. अपने तर्कों के समर्थन में लाइसेंसधारी ने नोटरी पब्लिक, मद्रास के समक्ष विधिवत शपथ लेकर स्टाम्प पेपर पर एक हलफनामा दाखिल किया है। तदनुसार मैं संतुष्ट हूँ कि आयात लाइसेंस सं. पी/डी/2023702 दिनांक 4-10-91 की मूल सीमाशुल्क प्रयोजन प्रति फर्म से खो गई है या गुम हो गई है। यथासंशोधित आयात (नियंत्रण) आदेश, 1955 दिनांक 7-12-1955 के उप खण्ड 9 (ग) के अंतर्गत प्रदत्त शक्तियों का प्रयोग करते हुए मै. मुरुगप्पा इलेक्ट्रॉनिक्स लि. को जारी की गई उक्त मूल सीमाशुल्क प्रयोजन प्रति सं. पी/डी/2023702 दिनांक 4-10-91 को एतद्वारा निरस्त किया जाता है।

3. पार्टी को उक्त लाइसेंस की दूसरी सीमाशुल्क प्रयोजन प्रति अलग से जारी की जा रही है।

[फा.सं. पूरक/एमएम/1560/डी जीडीडी/एम-91/एस
एल एस/2017]

माया दे. केम, उप मुख्य नियंत्रक आयात-निर्यात

ORDER

New Delhi, the 17th March, 1992

S.O. 965.—M/s. Murugappa Electronics Ltd., 305, Hebbal Industrial Area, Metagalalli Mysore-570016, were granted an import licence No. P/D/2023702 dated 4th October, 1991 for Rs. 2,75,000 (Rupees Two lakhs and seventy five

thousand only) for import of 4800 Nos. of Filter Cartridge under G.C.A.

The firm has applied for issue of Duplicate Customs purpose copy of the above mentioned licence on the ground that the original Customs purpose copy of the licence has been lost or misplaced. It has further been stated that the Customs purpose copy of the licence was registered with Customs Authority, Madras and as such the value of Customs purpose copy has been utilised partially.

2. In support of their contention, the licensee has filed an affidavit on stamped paper duly sworn in before a Notary

Public Madras. I am accordingly satisfied that the original Customs purpose copy of import licence No. P/D/2023702 dated 4th October, 1991 has been lost or misplaced by the firm, in exercise of the powers conferred under sub-clause 9(cc) of the Import (Control) Order, 1955 dated 7th December, 1955 as amended the said original Customs purpose copy No. P/D/2023702 dated 4th October, 1991 issued to M/s. Murugappa Electronics Ltd., is hereby cancelled.

3. A duplicate Customs purpose copy of the said licence is being issued to party separately.

[F. No. Suppl/NS/1560/DGTD/AM-91/SLS/2017]

MAYA D. KEM, Dy. Chief Controller of Imp. & Exp.

लाघ एवं नागरिक पूर्ति मंत्रालय

(नागरिक पूर्ति विभाग)

भारतीय मानक ब्यूरो

नई दिल्ली, 20 मार्च, 1992

का. आ. 966.—भारतीय मानक ब्यूरो (प्रमाणन), विनियम 1988 के विनियम 5 के उपविनियम (6) के अनुमरण में एतद्वारा अधिसूचित किया जाता है कि जिन प्रमाणन मुद्रा लाइसेंसों के विवरण नीचे अनुसूची में दिए गए हैं, उनकी अवधि समाप्त हो गई है।

अनुसूची

क्र. सं.	लाइसेंस सं. (सीएस/एल-)	लाइसेंसधारक का नाम व पता	संबंधित आई एस संख्या	अवधि समाप्ति की तिथि
(1)	(2)	(3)	(4)	(5)
1.	1054634	वोल्टार्क इलेक्ट्रोड्स प्रा. लि., 16 आई डी ए गाजुलामंड्याम, रेनीगुन्टा-517520	आई एस : 814 (भाग 1)—1974	91-04-30
2.	1305330	—वही—	आई एस : 814 (भाग 2)—1974	91-04-30

[संख्या के०प्र०वि०/13 : 14]

एन. श्रीनिवासन, अपर महानिदेशक

MINISTRY OF FOOD AND CIVIL SUPPLIES

(Department of Civil Supplies)

BUREAU OF INDIAN STANDARDS

New Delhi, 20th March, 1992

S. O. 966.—In pursuance of Sub-regulation (6) of Regulation 5 of the Bureau of Indian Standards (Certification) Regulations, 1988, it is hereby notified that the Certification Marks Licences, details of which are mentioned in the following Schedule have expired :

THE SCHEDULE

Sl. No.	Licence No.	Name of the licensee	Number of the relevant Indian Standard	Date of expiry
1.	1054634	Voltarc Electrodes Pvt Ltd., 16 IDA Gazulamandya Renigunta-517520	IS : 814 (Part I) -1974	91-04-30
2.	1305330	-do-	IS : 814 (Part II)-1974	91-04-30

[No. CMD/13 : 14]

N. SRINIVASAN, Add. Director General

कृषि मंत्रालय
(कृषि और सहकारिता विभाग)
प्रादेश

नई दिल्ली, 27 मार्च, 1992

का. प्रा. 967.—केन्द्रीय सरकार, उर्वरक (नियंत्रण) प्रादेश, 1985 की धारा 2 की उप धारा (क) के अनुसरण में श्रीमती सांथा शिला नायर, गंत्युक्त सचिव (बागवानी तथा उर्वरक), कृषि मंत्रालय (कृषि और सहकारिता विभाग) को 28 जनवरी, 1992 से श्री रवि मोहन सेठी के स्थान पर उर्वरक निगमक के पद पर नियुक्त करती है।

[सं. 1-3/92-उर्वरक विधि]

पी. आर. रामास्वामी, प्रवर सचिव

MINISTRY OF AGRICULTURE
(Department of Agriculture and Cooperation)

ORDER

New Delhi, the 27th March, 1992

S.O. 967.—In pursuance of sub-clause (c) of clause 2 of the Fertiliser (Control) Order, 1985, the Central Government hereby appoints, with effect from 28th January, 1992, Smt. Santha Sheela Nair, Joint Secretary (Hort. & Fert) Ministry of Agriculture (Department of Agriculture and Cooperation) as Controller of Fertilisers vice Shri R. M. Sethi.

[No. 1-3/92-Fert. Law]
P. R. RAMASWAMY, Under Secy.

संस्कृति विभाग
(भारतीय पुरातत्व सर्वेक्षण)
(पुरातत्व)

नई दिल्ली, 20 मार्च, 1992

का. प्रा. 968.—केन्द्रीय सरकार ने, प्राचीन संस्मारक तथा पुरातत्वीय स्थल और अवशेष अधिनियम, 1958 (1958 का 24) की धारा 4 की उपधारा (1) की अपेक्षानुसार भारत सरकार के संस्कृति विभाग (भारतीय पुरातत्व सर्वेक्षण) की अधिसूचना सं. का. प्रा. 2141 तारीख 31 जुलाई, 1990 द्वारा, जो भारत के राजपत्र, भाग 2, खंड 3, उपखंड (ii) तारीख 17 अगस्त, 1990 में प्रकाशित की गई थी, उक्त अधिसूचना की अनुसूची में विनिर्दिष्ट प्राचीन स्थल को राष्ट्रीय महत्व का घोषित करने के अपने धातय की दो मास की सूचना दी थी और उस अधिसूचना की एक प्रति स्थल के समीप सहज दृश्य स्थान पर लगा दी गई थी ;

और उक्त राजपत्र 14 सितम्बर, 1990 को जनता की उपलब्ध करा दिया गया था; और उक्त अधिसूचना से उपाबद्ध अनुसूची का एक मूद्रित कार्यविधि प्रादेश सं. 3334, तारीख 29 नवम्बर, 1990 द्वारा भारत के राजपत्र, तारीख 15 दिसम्बर, 1990 में प्रकाशित किया गया था ;

और केन्द्रीय सरकार को ऐसी घोषणा करने के संबंध में जनता से कोई प्राप्ति प्राप्त नहीं हुई है।

अतः केन्द्रीय सरकार, उक्त अधिनियम की धारा 4 की उपधारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, इससे उपाबद्ध अनुसूची में विनिर्दिष्ट प्राचीन स्थल को राष्ट्रीय महत्व का घोषित करती है।

अनुसूची

राज्य	जिला	परिक्षेत्र	स्थल का नाम	संरक्षण के लिए शामिल किए गए राजस्व स्थल संख्यांक	क्षेत्र	सीमाएं
1	2	3	4	5	6	7
हरियाणा	कुरुक्षेत्र	ग्रामदारा खेड़ा थानेश्वर	हर्ष का टीला और पुरातत्वीय अवशेष के प्राचीन स्थल।	सर्वेक्षण प्लॉट, संख्यांक 98 का भाग, जैसा कि नीचे उद्धृत स्थल रेखांक में दर्शाया गया है।	252 बीघा और 6 बिस्वा	उत्तर :—सर्वेक्षण प्लॉट सं. 278 (बैलवाड़ी का रास्ता) पूर्व :—सर्वेक्षण प्लॉट सं. 95 और सर्वेक्षण प्लॉट सं. 96 का शेष भाग। दक्षिण :—सर्वेक्षण प्लॉट सं. 28, 30, 31, 32, 89 और सर्वेक्षण प्लॉट सं. 96 का शेष भाग। पश्चिम :—सर्वेक्षण प्लॉट सं. 1179, 1179/1, 1180/1 और सर्वेक्षण प्लॉट सं. 96 का शेष भाग।
स्थापित				टिप्पणियां		
8				9		
प्राचारी डेह				शामलात		

[सं. 2/4/88 एम०।

DEPARTMENT OF CULTURE
(Archaeological Survey of India)
(ARCHAEOLOGY)

New Delhi, the 20th March, 1992

S.O. 968.—Whereas by a notification of the Government of India in the Department of Culture (Archaeological Survey of India) No. S.O. 2141 dated 31st July, 1990, published in the Gazette of India, Part-II, Section 3, sub-section (ii), dated the 11th August, 1990, the Central Government gave two months' notice of its intention to declare the ancient site specified in the Schedule to the said notification to be of national importance and a copy of the notification was affixed in a conspicuous place near the said site as required by sub-section (i) of Section 4 of the Ancient Monuments

and Archaeological Sites and Remains Act, 1958 (24 of 1958);

And, whereas, the said gazette was made available to the public on 14th September, 1990;

And, whereas, a corrigendum to the schedule annexed to the said notification was published under S.O. No. 3334 dated 29th November, 1990 in the Gazette of India dated 15th December, 1990;

And, whereas, no objections from the public has been received by the Central Government to the making of such declaration;

Now, therefore, in exercise of the powers conferred by sub-section (3) of section 4 of the said Act, the Central Government hereby declares the ancient site specified in the Schedule annexed hereto to be of national importance.

SCHEDULE

State	District	Locality	Name of Site	Revenue plot number included under protection
1	2	3	4	6
Haryana	Kurukshetra	Village Dara Khera Thaneswar	Ancient site of Harsh-Ka Tila and Archaeological remains.	Parts of survey plot number 96 as shown in the site plan reproduced below.
Area	Boundaries	Ownership	Remarks	
6	7	8	9	
252 Bigha and 6 Biswa	North:—Survey plot No. 278 (Cart Track) East:—Survey plot No. 95 and remaining portion of survey plot No. No. 96. South:—Survey plot Nos. 29, 30, 31, 32, 89 and remaining portion of survey plot No. 96 West:—Survey plot Nos. 1179, 1179/1, 1180/1 and remaining portion of survey plot No. 96.	Abadi Deh	Samlat	

[No. 2/4/88-M]

M.C. JOSHI, Director General

परमाणु ऊर्जा विभाग बंबई, 5 फरवरी, 1992			
का आ. 969—परमाणु ऊर्जा अधिनियम 1962 (1962 का 33) की धारा 3 के खण्ड (घ) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा निम्न अनुसूची के स्तम्भ (1) में विनिर्दिष्ट क्षेत्र को निषिद्ध क्षेत्र घोषित करती है।		अनुसूची	
निषिद्ध क्षेत्र का नाम	सीमाएं, अथवा अन्य विवरण	1	2
1	2		
खसरा के अंतर्गत दिए गए विवरणों के साथ भारी पानी परियोजना	भारी पानी परियोजना कोटा से लगभग 2 1/2 कि. मी. की	(कोटा) राजस्थान का विलम्बन-टंकी क्षेत्र खटा : खसरा सं. 72 ग्राम : खेरली तहसील : बेगुन जिला : चित्तौड़गढ़	दूरी पर रावतभाटा गांधी सागर मार्ग के बांयी तरफ (झालर बोरी II के छोटे मैदान के भाग) फोरेस्ट ब्लॉक में गांव खेरली के खसरा सं. 72 में स्थित 340 मीटर (1115.2 फीट) × 240 मीटर (787.2 फीट) मापित क्षेत्र
		[सं. ए. ई. ए./19(1)/91-ई.आर.] भार. स्वामीनाथन, उप सचिव (ई.आर.)	

DEPARTMENT OF ATOMIC ENERGY

Bombay, the 5th, February, 1992

S.O. 969 :—In exercise of the powers conferred by clause (d) of section 3 of the Atomic Energy Act, 1962 (33 of 1962), the Central Government hereby declares the area specified in column (1) of the Schedule below to be a "prohibited area".

SCHEDULE

Name of the prohibited area.	Boundaries or other description
(1)	(2)
Delay Tank area of Heavy Water Project (Kota) Rajasthan with details as under Khasara Khata - Khasara No. 72 Village--Kherli Tehsil-- Begun Dist.— Chitorgarh	Area measuring 340 metres (1115.2 feet) × 240 metres (787.2 feet) situated in Khasara No. 72 of Kherli Village in forest block (part of the Padduck of Jhalor Baur-II, on the left side of the Rawatbhata Gandhisagar Road at approximate distance of 2½ kms from Heavy Water Project, Kota.

[No. AEA/19(1)/91-ER]

R. SWAMINATHAN, Dy. Secy. (ER)

आदेश

बंबई, 5 फरवरी, 1992

का.भा. 970.—परमाणु ऊर्जा अधिनियम 1962 (1962 का 33) की धारा 27 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्द्वारा निदेश देती है कि संलग्न अनुसूची के स्तम्भ (1) में विनिर्दिष्ट निषिद्ध क्षेत्र के संबंध में धारा 19 द्वारा प्रदत्त शक्तियों का प्रयोग उक्त अनुसूची के स्तम्भ 2 में दिए गए सभी अधिकारियों द्वारा अथवा किसी भी अधिकारी अथवा प्राधिकारी द्वारा किया जा सकेगा।

अनुसूची

निषिद्ध क्षेत्र का नाम	अधिकारी अथवा प्राधिकारी का पदनाम
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भारी पानी परियोजना कोटा, राजस्थान का विलम्बन टंकी क्षेत्र	1. महाप्रबंधक, भारी पानी परियोजना, कोटा
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2. उप महाप्रबंधक, भारी पानी परियोजना, कोटा

3. प्रशासनिक अधिकारी, भारी पानी परियोजना, कोटा

4. सूत्रा अधिकारी, भारी पानी परियोजना, कोटा

[सं. ए ई ए/19(1)/91-ई प्रार]

प्रार. स्वामीनाथन, उप सचिव (ई प्रार)

ORDER

Bombay, the 5th February, 1992

S.O. 970 :—In exercise of the powers conferred by section 27 of the Atomic Energy Act, 1962 (33 of 1962), the Central Government hereby directs that the powers conferred on it by section 19 shall, in respect of the prohibited area specified in column (1) of the Schedule annexed hereto be exercisable also by all or any of the officers or authorities mentioned in column (2) of the said schedule.

SCHEDULE

Name of the prohibited area	Designation of the officers or authority
(1)	(2)
Delay tank area of Heavy Water Project, Kota, Rajasthan.	1. General Manager Heavy Water Project, Kota. 2. Deputy General Manager, Heavy Water Project, Kota. 3. Administrative Officer, Heavy Water project, Kota 4. Security Officer, Heavy Water Project, Kota.

[No. AEA/19(1)/91-ER]

R. SWAMINATHAN, Dy. Secy. (ER)

संचार मंत्रालय
(दूर संचार प्रायोग)
नई दिल्ली, 26 मार्च, 1992

का. प्रा. 971.—केन्द्रीय सरकार, राजभाषा (सच के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10(4) के अनुसरण में, संचार मंत्रालय के प्रशासनिक नियंत्रणाधीन निम्नलिखित कार्यालयों, जिसमें 80 प्रतिशत से अधिक अधिकारी/कर्मचारियों ने हिन्दी का कार्यमाध्यम ज्ञान प्राप्त कर लिया है, को एतद्वारा अधिसूचित करती है।

1. ट्रंक टेलीफोन एक्सचेंज, अहमदाबाद
2. उप मंडल अधिकारी फोन्स का कार्यालय, पोरबन्दर
3. टेलीफोन एक्सचेंज, द्वारिका

[सं. ई. 11027/2/88-रा. सा.]

एच. सी. शर्मा, उप निदेशक (राजभाषा)

MINISTRY OF COMMUNICATIONS

(Telecom. Commission)

New Delhi, the 26th March, 1992

S.O. 971.—In pursuance of Rule 10(4) of the Official Language (use for official purpose of the Union) Rule, 1976, the Central Govt. hereby notifies the following offices under the Administrative control of Ministry of Communications where of more than 80 per cent staff have acquired working knowledge of Hindi

1. Trunk Telephone Exchange Ahmedabad.
2. Office of Sub-Divisional Officer, Phones, Porbandar.
3. Telephone Exchange, Dwarika.

[No. E. 11027/2/88-OL]
H. C. SHARMA, Dy. Director (OL)

श्रम मंत्रालय

नई दिल्ली, 6 मार्च, 1992

का.प्रा. 972.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सैन्ट्रल बैंक आफ इंडिया के प्रबंधन के संबंध निोजकों और उनके कर्मचारियों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधि-करण, कानपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-3-92 को प्राप्त हुआ था।

[संख्या एन-12012/171/87-डी-2(ए)]

वी. के. वेणुगोपालन, डेस्क अधिकारी

MINISTRY OF LABOUR

New Delhi, the 6th March, 1992

S.O. 972.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure in the Industrial dispute between the employers in relation to the management of Central Bank of India and their workmen, which was received by the Central Government on the 6th March, 1992.

[No. L-12012/171/87-D.II(A)]
V. K. VENUGOPALAN, Desk Officer

ANNEXURE

BEFORE SHRI ARJAN DEV, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, PANDU NAGAR, KANPUR
Industrial Dispute No. 3 of 1988

In the matter of dispute between :

Sri Ram Milan Sharma,
C/o Sri V. N. Sekhari,
26/104 Birhana Road,
Kanpur.

AND

Regional Manager,
Central Bank of India,
Gandhi Nagar Gole Ghar,
Gorakhpur.

AWARD

1. The Central Government, Ministry of Labour, vide its notification No. L-12012/171/87-D.II(A) dated 29th January, 1988, has referred the following dispute for adjudication to this Tribunal :—

Whether the action of the management of Central Bank of India in dismissing from service Sri Ram Milan Sharma w.c.f. 28th August, 1985 was justified? If not, to what relief is the workman entitled?

2. The admitted facts are that the workman Sri Ram Milan Sharma joined the bank's service as sub-staff on 24th December, 1970 and was promoted as Assistant Cashier-cum-Godown Keeper in November, 1974. While he was working as such at Lalapur branch, in respect of an incident dated 19th May, 1980, he was suspended on 24th May, 1980. In respect of the said incident an F.I.R. was lodged by the bank at the police station on 20th May, 1980. However, the police gave final report in the case on 20th April, 1981. Thereafter, the management decided to initiate disciplinary proceedings against him. He was served with charge sheet dated 24th April, 1982, copy Ext. M-1, It is annexure A to the list of documents dated 3rd May, 1989 filed by the management. The charge reads as under :—

On 19th May, 1980 Sri Ram Milan Sharma, Asstt. Cashier-cum-Godown Keeper made payment of cheque No. 182737 dated 19th May, 1980 for Rs. 50,000 drawn by M/s. Mukhtar Ahmad Aqbal Ahmad from C/D Account M/s. Mukhtar Ahmad Aqbal Ahmad before the cheque has been actually passed for payment. The drawer M/s. Mukhtar Ahmad Aqbal Ahmad has also denied having drawn any such cheque or having received the said payment. This act on the part of Mr. Sharma has put the bank to a monetary loss and it constitutes gross misconduct under para 19.5(j) of the Second Bi-partite settlement dated 19th October, 1966.

The Disciplinary Authority appointed Sri M. P. Pandey, Branch Manager, as Enquiry Officer. The E.O. after holding inquiry gave his inquiry report on 6th February, 1985. He found the charge against the workman as proved. The Disciplinary Authority accepted the findings and issued to the workman a show cause notice about the proposed punishment on 26th June, 1985. After considering the submissions made by the workman against show cause notice, the Disciplinary Authority confirmed the notice and awarded to the workman the punishment of dismissal from service, vide his order dated 12th August, 1985. Against the order of punishment the workman filed an appeal but the same was dismissed by the appellate authority vide order dated 26th February, 1986.

3. The workman has challenged the order of punishment on a number of grounds. He alleges that the construction of charge sheet was defective. He also alleges that he was not given proper opportunity of putting up his defence in the inquiry by the E.O. Copies of documents relied upon by the management were not supplied to him in defence. They were supplied to him during the course of inquiry. His witness Sri S. S. Ray who was summoned by him from Patna was not examined by the E.O. even after his stay of four days. The inquiry officer also did not recall the inquiry to consider the report of his hand writing expert. In fact the inquiry officer acted in a partisan manner. He has further pleaded that the findings given by the E.O. and accepted by the Disciplinary Authority and later on confirmed by the Appellate Authority are not based on evidence. Another fact alleged by the workman is that the E.O. as well as the Disciplinary Authority were not validly appointed and in the conduct of the inquiry they had acted without jurisdiction.

4. Lastly, he has alleged that the punishment awarded to him is highly disproportionate and excessive when looked in the light of the facts and circumstances of the case. He has,

therefore, prayed that the action of the management in dismissing him from service be declared as illegal and unjustified and that the management be directed to reinstate him in service with retrospective effect with full back wages and all other consequential benefits.

5. The case is contested by the management. The management placed that the charge sheet is quite clear. It is not defective at all. According to the management the E.O. conducted the inquiry in a fair and proper manner in accordance with the principles of natural justice. He was not biased at all against the workman. During the course of inquiry the workman sought as many as 13 adjournments. The management deny that the findings given by the E.O. are not based on evidence. As regards the report of the hand writing expert, the management plead that the expert's evidence from both the sides was not relied upon by the E.O. The workman did not produce his expert for evidence despite sufficient time given to him. The management dispute the fact alleged by the workman that the E.O. and the Disciplinary Authority were not properly appointed and had no jurisdiction to conduct the inquiry. As regards punishment, the management plead that it is just and commensurate with the charge.

6. On 17th January, 1991, the following preliminary issue was framed in the case—

Whether the Departmental inquiry was not conducted fairly and properly?

7. In support of their respective cases both sides have relied upon oral as well as documentary evidence. Whereas the workman has examined himself, the management have examined Sri Kailash Chander Mehrotra, Asstt. Regional Manager, Gorakhpur Region.

8. In the present case Sri K. N. Soni, the authorised representative for the workman has filed written arguments. In his written arguments he has raised the following three points :—

1. That the inquiry was not conducted fairly and properly;
2. That the finding given by the E.O. and accepted by the Disciplinary Authority and subsequently confirmed by the Appellate Authority is perverse; and
3. That the punishment awarded to the workman is not only excessive but also highly disproportionate when looked into the nature of the charge proved against the workman.

Point No. 1 :

9. It has been first argued by Sri Soni that during the course of inquiry the workman summoned Sri S. S. Ray as his witness from Patna but inspite of the fact that he remained present for four days his evidence was not recorded by the E.O.

10. To appreciate the above point we will have to look into the proceedings of inquiry of a few dates. From the proceedings of inquiry dated 3-6-83, it appears that the management representative after examining Sri Shiv Kumar Shukla Armed Guard closed management's evidence. On the oral request of the defence representative the E.O. directed the management representative to make arrangement for the presence of Sri S. S. Ray on the next date of hearing in the inquiry. After 3-6-83, proceedings in the inquiry were taken up on 1-8-83. On the said date the management representative requested the E.O. to permit him to produce as management's witnesses—

1. Sri S. D. Shukla, Chief Cashier, Jalalpur Branch.
2. Sri Ram Gopal the recipient of the amount of the cheque and
3. The hand writing expert who was expected to reach Faizabad where the inquiry was being held by 2.00 p.m. on 2-8-83.

The E.O. accepted the request so made by the management's representative and permitted him to examine these witnesses.

11. There is no law which prohibits production of additional evidence by the employer during the course of

domestic inquiry. However, due notice of it should be given to the chargesheeted employee and in case the chargesheeted employee or his defence representative seeks time to prepare himself for cross examining the additional witnesses sought to be produced, the E.O. should give reasonable time to the employee/defence representative. It is not the case of the workman that notice in this regard was not given to him or his defence representative. It is also not the case of the workman that time was sought by him or his defence representative for the purpose of making preparation for the cross examination of witnesses. In the circumstances, I see no force in the submissions made by Sri Soni. Even if Sri S. S. Ray had come he could not have been examined because of the prayer made by the management representative produced additional witnesses. From the inquiry proceedings it appears that the inquiry was held on 1-8-83, 2-8-83 and 4-8-83. There is nothing in these proceedings to indicate that Sri S. S. Ray had come. As already observed by me above, even if he had come, he could not have been examined by the E.O. until the conclusion of evidence by the management. Only after the management had closed their evidence that the workman could have applied to the E.O. to summon Sri S. S. Ray again. There is nothing in the proceedings of inquiry to show that after the close of management's evidence workman ever summoned him again.

12. Secondly, it has been submitted by Sri Soni that the workman was not given any opportunity to cross examine the management witness Sri R. P. Misra and Sri R. S. Chaturvedi. I have gone through the proceedings of the inquiry and find that there is no substance in the submission of Sri Soni.

13. Management representative examined Sri R. P. Misra as bank's witness on 20-10-82 and his examination-in-chief continued even on 21-10-82 and 22-10-82. On all these three dates the workman requested the E.O. to permit him to cross examine the witness at a later stage as his defence representative had not come. The E.O. acceded to his request. From the proceedings dated 11-11-82, it appears that the defence representative cross examined the witness on that day.

14. The management representative produced Sri R. S. Chaturvedi clerk of Jalalpur Branch on 22-10-82. On that date the defence representative was not present. Again the E.O. allowed the request of the workman that since his defence representative was not present he should be allowed to cross examine the witness at a later stage. From the proceedings dated 30-4-83, it appears that this witness was cross examined on that date by the defence representative. Thus I see no force in it. Before raising such a point Sri Soni should have gone through the entire inquiry proceedings in order to know as to what actually had happened with regard to these two witnesses.

15. Thirdly, it has been submitted by Sri Soni, that before the statement of management witness Sri S. D. Shukla Armed Guard could be concluded the E.O. permitted the management representative to cross examine the hand writing expert. According to him this amounted to illegality in the proceedings.

16. Even in this plea I find no force. It will be useful to refer to proceedings of inquiry dated 2-8-83. It appears that proceedings in inquiry continued even on 3-8-84 and 4-8-84 and on all the three dates the defence representative was not present. From the proceedings of inquiry dated 2-8-83, it will be evident that the management representative sought permission from the inquiry officer to examine the hand writing expert who was expected to arrive after discontinuing the examination-in-chief of Sri S. D. Shukla and the permission was granted by the E.O. I don't think by doing so any illegality was committed by the E.O. or the workman in any way stood prejudiced. It is not the case of the workman that he/his defence representative was not allowed to cross examine Sri S. D. Shukla, or that the evidence of Sri S. D. Shukla was not recorded in this presence.

17. On the point under consideration the last submission of Sri Soni is that on 8-9-83, the workman's request for

adjournment of the inquiry was rejected by the E.O. I would like to refer to para 12 at page 6 of the written arguments submitted by Sri Soni. It reads as under :—

That the management has been allowed 13 adjournments whereas the workman's request to adjourn the domestic inquiry dated 8-9-83 was rejected outright. The inquiry officer did not allow to produce signature expert and also did not allow documents for photocopy which was previously allowed. The previous copies obtained during black out period were defective. Therefore, the workman requested to allow him to get photostat copies again of the summoned documents. Kindly see page 236 and 237 of the domestic inquiry proceedings. It clearly proves that the workman's request for adjournment of 8-9-83 proceedings was rejected outright, which is against the principles of natural justice.

18. I have gone through the inquiry proceedings dated 5-9-84, 6-9-84 and 8-9-84 and find that the E.O. had tried to accommodate the workman during the course of inquiry to the maximum. It is wrong to impute motives to the E.O. There is no force in the plea of the workman that the E.O. did not act fairly and properly and that the E.O. rejected the workman's prayer for adjournment on insufficient grounds.

19. In this connection I would like to refer to the following observations made by the E.O. at page 236 of the inquiry proceedings dated 8-9-84—

Not only this, it is made further clarified that the enquiry was started from 30-8-82 and during these periods, besides the above three adjournment he was allowed 10 adjournments. Six adjournments were allowed to M.R. and Seven adjournments were allowed to the request of both the sides. During this period, the CSE was allowed to change three defence representatives only with a view to impart full justice to him. From the proceedings, it is clear that at many sittings his DRs did not attend the proceedings. Thus maximum opportunities were given to defence side for their defence purposes. From the proceedings it can be observed that instances are there where perhaps none of the inquiry officers allowed such maximum opportunities.

20. From the proceedings of the above three dates it will appear that the inquiry was being held at Faizabad. The management representative was coming from Chandigarh where he was posted and Sri G. K. Awasthi Defence Representative was coming from Calcutta. With regard to the date 5-9-84, the E.O. informed the defence representative separately. This date was fixed on the request of the workman as will appear from the proceedings dated 8-9-84. Further from the proceedings dated 6-9-84, it appears that before the E.O. workman submitted that his defence representative was present at Kanpur. It also appears that neither the D.R. nor the expert of the workman appeared on 5-9-84, 6-9-84 and 8-9-84. It was on the request of the workman that the E.O. in the interest of justice adjourned the inquiry to 6-9-84.

21. Hence I find no force even in this plea of Sri K. N. Soni, the authorised representative for the workman. Thus we see that there is nothing on record to show that the E.O. did not conduct the inquiry fairly and properly in accordance with the principles of natural justice. Point no. 1 is decided accordingly against the workman.

22 Point No. 2 :

From the charge which has been quoted while referring to the admitted facts of the case, the following three things come out—

1. That the cheque dated 19-5-80 for Rs. 50,000 was not drawn by M/s. Mukhtar Ahmad Iqbal Ahmad.
2. That the payment of the said cheque was not received by said firm through any of its partners or representative; and

3. That the workman made payment before it was actually passed for payment by the passing officer.

23. Now let us see what was held by the E.O. on this charge, after considering the evidence produced before him. In the concluding paragraph he has observed that the firm had sufficient balance for payment of the cheque; that cheque was drawn by Sri Ajaj Ahmad Partner of the said firm and that its payment was made by the workman with the connivance of Shri Ajaj Ahmad. It therefore, appears that the first two parts of the charge did not stand proved against the workman; it was only the third charge which stood proved against the workman. In para 15 of his written arguments at page 6 Sri Soni has submitted that the finding given by the E.O. is perverse and is not based on material available on record. It is based on hearsay evidence, presumptions and conjectures. He has not supported all this with reference to particular pieces of evidence recorded by the E.O. during the domestic inquiry. So it is not possible for me to give much importance to the observations made by Sri Soni. I have gone through the findings and find that the finding on point no. 3 is well supported by evidence and circumstances. So I find no force in this point. But as said above by me only one part of the three charge has been proved against the workman.

24. Point No. 3 :

On this point it has been submitted by Sri Soni that the punishment awarded is highly excessive and disproportionate. In this connection I would like to refer to the following observations made by the E.O. at page no. 4 of the inquiry report which reads as under :—

As per deposition made in the proceedings by witnesses Sri Ajaj Ahmad used to sit even in cash chamber much against the instructions of the Central Office. This means Sri Ajaj Ahmad has direct access to enter anywhere in bank in any department and generally used to sit in cash chamber with cash staff. It further cemented that there must be close intimacy between his and our cash staff at Jalalpur.

It appears that the firm had long association with the bank as will be evident from the statement of Sri Ajaj Ahmad made in examination-in-chief during the inquiry. When it was inquired from him as to how old the dealings of the firm are with the bank, he replied that he had nearly 7 to 8 years of dealing with the bank.

25. From the facts found above, it becomes evident that Sri Ajaj Ahmad, the partner of the firm had close association with the staff of the Jalalpur Branch of the bank so much so that he even had access to the cash cabin. Therefore, there is no wonder if the banking staff had been some time going even out of way to accommodate the firm. In the circumstances there is every probability of cash staff clearing the cheques of this firm when the firm had enough money in their account in anticipation that the cheques of the firm would be passed by the passing officer. Perhaps such a situation would not have arisen had Sri Ajaj Ahmad not created such a fuss. The possibility of such a fuss having been created by him in order to rob the firm of the said amount cannot be ruled out in view of the findings recorded by the E.O. that the cheque was drawn by him on behalf of the firm and that he had received the amount of the cheque with the connivance of the workman.

26. All that can be said in the instant case is that the workman was technically wrong in making the payment. They should have made the payment only after the cheque has been passed by the passing officer. The bank has not been put to any loss of money. For this technical lapse, in my view the capital punishment of dismissal from service, cannot be sustained. It is not at all warranted. It would be enough if his two annual graded increments are withheld.

27. In view of the findings recorded on the above points, the action of the management of Central Bank of India in awarding the punishment of dismissal from service to the workman cannot be held as justified.

28. So, in exercise of powers under Section 11-A of the Industrial Disputes Act, 1947, the said punishment is converted by me into punishment of stoppage of two annual graded increments of the workman. Consequently, the workman is reinstated in service with full back wages and all consequential benefits with the substituted punishment. He will get full salary and allowances as are admissible for the period of suspension.

29. The reference is answered accordingly.

ARIAN DEV, Presiding Officer

नई दिल्ली, 9 मार्च, 1992

का.मा. 973—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैट्रल बैंक ऑफ इण्डिया के प्रबन्धन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधि-करण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 9-3-92 को प्राप्त हुआ था।

[संख्या एल-12012/379/88-डी-2(ए)]

वी. के. वेणुगोपालन, डेस्क अधिकारी

New Delhi, the 9th March, 1992

S.O. 973.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure in the Industrial dispute between the employers in relation to the management of Central Bank of India and their workmen, which was received by the Central Government on 9-3-92.

[No. L-12012/379/88-DII(A)]

V. K. VENUGOPALAN, Desk Officer

ANNEXURE

BEFORE SRI ARJAN DEV, PRESIDING OFFICER,
CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT, PANDU NAGAR DEOKI PALACE
ROAD, KANPUR

Industrial Dispute No. 171 of 1988

In the matter of dispute between:

Smt. Munni Devi
C/o Sri V. N. Sekhari
26/104 Birhana Road
Kanpur.

AND

Regional Manager,
Central Bank of India,
88-B Civil Lines, Bareilly

AWARD

1. The Central Government, Ministry of Labour, New Delhi, vide its notification no. L-12012/379/88-D2(A) dated 29-11-88, has referred the following dispute for adjudication to this Tribunal:—

Whether the action of the Management of Central Bank of India in terminating the service of Smt. Munni Devi w/o Late Ramesh Kumar w.e.f. 18-9-85 and paying her at Rupees Ten per day is justified? If not, to what relief she is entitled?

2. In the present case on 4-2-92 a settlement was filed with the request to decide the reference in terms of settlement. Sri Ashfaq Hussain appeared for the management and S/Sri K. N. Soni and D. D. Mehta appeared for the management. The terms of the settlement were read over

and explained to the parties. In view of the prayer made by the parties the reference is decided accordingly.

3. The terms & conditions of the settlement are as under:—

1. That it is agreed that the management will appoint Smt. Munni Devi in subordinate cadre.

2. That it is agreed that if the workman Smt. Munni Devi possess higher qualification she will not be considered for promotion to higher category such as clerical etc.

3. That it is agreed that the workman Smt. Munni Devi will be initially appointed on probation as per bank's norm and her posting will be given subject to the availability within fifteen of vacancy anywhere in Region.

4. That it is also agreed that she will not claim any arrears of back wages or any monetary or non-monetary benefits from the bank prior to the date of his actual appointment.

5. That it is also agreed that this fully and finally settles the above dispute.

4. Thus from the above it appears that there remains no dispute between the parties.

5. Reference is therefore decided accordingly.

ARIAN DEV, Presiding Officer

नई दिल्ली, 9 मार्च, 1992

का.मा. 974—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार यूनियन बैंक ऑफ इण्डिया के प्रबन्धन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधि-करण, कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 9-3-92 को प्राप्त हुआ था।

[संख्या एल-12012/480/88-डी-2(ए)]

वी. के. वेणुगोपालन, डेस्क अधिकारी

New Delhi, the 9th March, 1992

S.O. 974.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure in the Industrial dispute between the employers in relation to the management of Union Bank of India and their workmen, which was received by the Central Government on 9-3-92.

[No. L-12012/480/88-DII(A)]

V. K. VENUGOPALAN, Desk Officer

ANNEXURE

BEFORE SRI ARJAN DEV, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, PANDU NAGAR KANPUR

Industrial Dispute No. 101/89

In the matter of dispute between:

Shri Bhagwati Prasad,
Sri Sarawati Prasad,
87 Mohatimganj, Allahabad.

AND

The Regional Manager
Union Bank of India,
Regional Office
117/H-1/240 Pandu Nagar.
Kanpur.

AWARD

1. The Central Government, Ministry of Labour, vide its notification no. L-12012/480/88-D2(A) dt. 28-4- (year not given) has referred the following dispute for adjudication to this Tribunal:—

Whether the action of the management of Union Bank of India in respect of their Civil Lines Branch Allahabad in terminating the services of Sh. Bhagwati Prasad Misra sub Staff is justified? If not, to what relief is the workman entitled?

2. In this case on 22-1-92 the parties filed a settlement with the request that the reference may be decided in terms of the settlement. The terms of settlement are as under:—

1. That Sri Bhagwati Prasad Misra S/o L. Sri S. P. Misra will be absorbed afresh as a Peon/Hamal on permanent basis in sub staff cadre on initial basic pay (starting) as applicable to sub staff cadre within two month of this settlement.
2. That Sri Bhagwati Prasad Misra will be given posting order by the Deputy General Manager, Zonal Office, Lucknow at any branch/office in the state of U.P. as per requirement/exigencies of the bank within two month of this settlement and for that matter Sri Bhagwati Prasad Misra will complete formalities for recruitment of permanent employee as per the procedures and norms of the Bank.
3. That it is further agreed that the said Sri Bhagwati Prasad Misra will not claim back wages and other benefits monetary or otherwise, service seniority etc. for his past temporary/casual engagement in the bank and also till he joins the services of the bank pursuant to this settlement.
4. That this fully and finally resolves the entire matter of dispute under reference between the said Sri Bhagwati Prasad Misra and the bank management, and Sri Bhagwati Prasad Misra not file any dispute as regards to this settlement in any court of law.

I, therefore, decide the reference in the light of the above terms.

Reference is answered accordingly.

ARJAN DEV, Presiding Officer

नई दिल्ली, 9 मार्च, 1992

का.भा. 975.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार यूनियन बैंक आफ इण्डिया के प्रबन्धन के संबंध नियोजकों और उनके कर्मचारों के बीच, प्रनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधि-करण, कानपुर के पंचत को प्रकाशित करती है, जो केन्द्रीय सरकार को 9-3-92 को प्राप्त हुआ था।

[संख्या एल-12012/494/88-डी-2(ए)]

बी. के. वेणुगोपालन, डेस्क अधिकारी

New Delhi, the 9th March, 1992

S.O. 975.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure in the Industrial dispute between the employers in relation to the management of Union Bank of India and their workmen, which was received by the Central Government on 9-3-92.

[No. L-12012/494/88-DII(A)]
V. K. VENUGOPALAN, Desk Officer

ANNEXURE

BEFORE SRI ARJAN DEV, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT PANDU NAGAR, KANPUR

Industrial Dispute No. 60 of 1989

In the matter of dispute between:

Sri Ajay Kumar Srivastava.
R/o C-24/29 Kabirchaura,
Varanasi.

AND

The Assistant General Manager,
Union Bank of India,
Zonal Office
8-MG Marg Lucknow.

(AWARD

1. The Central Government, Ministry of Labour, vide its notification no. L-12012/494/88-D2(A) dt. 20-2-89, has referred the following dispute for adjudication to this Tribunal:—

Whether the action of the management of Union Bank of India in terminating the services of Sri Ajai Kumar Srivastava is justified. If not, to what relief is the workman entitled?

2. On 6-2-92 Sri K. N. Soni appeared alongwith the workman. Sri S. N. Mehra appeared for the management. Parties filed settlement contents of which were read over and explained before the parties. It was requested from the side of the parties that the reference may kindly be decided in terms of the settlement. The terms of settlement are as under:—

1. That Sri Ajai Kumar Srivastava s/o Late Sri Shankar Prasad Srivastava will be absorbed afresh as a Peon/Hamal on permanent basis in sub staff cadre on initial basic pay (starting) as applicable to sub staff cadre within two month of this settlement.
2. That Sri Ajai Kumar Srivastava will be given posting order by the Dy. General Manager, Zonal Office, Lucknow at any branch/office in the state of U.P. as per recruitment/exigencies of the bank within two months of this settlement and for that matter Sri Ajai Kumar Srivastava will complete formalities for recruitment of permanent employees as per the procedure and norms of the bank.
3. That it is further agreed that the said Sri Ajai Kumar Srivastava will not claim back wages and other benefits monetary or otherwise, service seniority etc., for his part temporary/casual engagement in the bank.
4. That this fully and finally resolves the entire matter of dispute under reference between the said Sri Ajay Kumar Srivastava and bank management.

3. Thus from the above terms and conditions for the settlement it appears that there remains no dispute between the parties the reference order deserved to be decided accordingly.

4. I, therefore, decide the reference order in the light of the terms and conditions of the settlement dated 4-2-92.

5. Reference is answered accordingly.

ARIAN DEV, Presiding Officer

नई दिल्ली, 10 मार्च 1992

का. भा. 976.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, बैंक आफ इण्डिया के प्रबन्धन के संबंध नियोजकों और उनके कर्मचारों के बीच, प्रनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधि-करण, बंगलूरु के पंचत को प्रकाशित करती है, जो केन्द्रीय सरकार को 9-3-92 को प्राप्त हुआ था।

[संख्या एल-12012/82/91-आईआरडी-2]
बी. के. वेणुगोपालन, डेस्क अधिकारी

New Delhi, the 10th March, 1992

नई दिल्ली, 12 मार्च, 1992

S.O. 976.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure in the Industrial dispute between the employers in relation to the management of Bank of Baroda and their workmen, which was received by the Central Government on the 9-3-92.

[No. L-12012/82/91-IR -B-II]
V. K. VENUGOPALAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Died, this 28th day of February, 1992

PRESENT :

Shri M. B. Vishwanath, B.Sc., B.L.,

Presiding Officer.

Central Reference No. 49/91

I Party

Vs.

II Party

Sri. Mithilesh Kumar,
represented by,
The General Secretary,
Bank of Baroda Employees'
Union,
C/o Bank of Baroda,
Jayanagar,
Bangalore-560011.

The Regional Manager,
Bank of Baroda,
Regional Office,
30/1, Cunningham Road,
Bangalore-52.

AWARD

1. By order No. L-12012/82/91-IRB. II dated Nil, the Hon'ble Central Government had referred this dispute for adjudication under Clause (d) of Sub-Section (1) and Sub-Section (2A) of Section 10 of Industrial Disputes Act, 1947 (14 of 1947) to this Tribunal.

2. The point for adjudication as per Schedule to reference is as follows :

"Whether the claim of Bank of Baroda Employees Union, that Shri. Mithilesh Kumar, Caretaker, Holiday Home RNT Nagar was an employee of Bank of Baroda is correct? If so, whether the management of Bank of Baroda was justified in terminating his services? What relief if any, is the workman entitled to?"

3. Notices were issued to both the parties to appear before this Tribunal on 5-9-1991. In spite of serving the notice, the I Party has not appeared before this Tribunal. In all 6 adjournments were granted to the I Party to file his claim statement. Neither the I Party has appeared in person nor has he appointed any counsel to represent him. The I Party has not filed the claim statement so far.

4. By way of abundant precaution, notice was issued to the I Party by Registered Post Acknowledgement Due. The acknowledgement card, duly signed by the addressee, shows that the notice has been served on the I Party.

5. Hence it is clear that the I Party, represented by the Union, is not interested in prosecuting the matter. The reference, therefore, is rejected.

(Dictated to the Secretary (I/c), taken down by him, got typed and corrected by me.

M. B. VISHWANATH, Presiding Officer

का.प्र. 977.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार का बैंक आफ बड़ोदा के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, अहमदाबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-3-92 को प्राप्त हुआ था।

[संख्या 106-12012/62/91-आई आर बी II]

वी.के. वेणुगोपालन, डेस्क अधिकारी

New Delhi, the 12th March, 1992

S.O. 977.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Ahmedabad as shown in the Annexure in the industrial dispute between the employers in relation to the Mgt. of Bank of Baroda and their workmen, which was received by the Central Government on the 10-3-1992.

[No. 106-12012/62/91-IRB-II]

V. K. VENUGOPALAN, Desk Officer.

ANNEXURE

BEFORE SHRI N. A. CHAUHAN, INDUSTRIAL TRIBU-
NAL (CENTRAL) AT AHMEDABAD.

Reference (I.T.C.) No. 41 of 1991.

ADJUDICATION BETWEEN :

Bank of Baroda, Ahmedabad.

—First Party

AND

The workmen employed under it.

—Second Party.

In the matter of termination of services of Shri Rajuji Kalubhai Chavda

APPEARANCES :

Shri R. D. Dave, Advocate for the First Party.

Shri N. N. Patel, Advocate for the Second Party.

AWARD

This reference under Section 10(1)(d) of the Industrial Disputes Act, 1947, hereinafter to be referred as "the I. D. Act" is referred by the Shram Mantralaya of Central Government vide Notification No. 106-12012/62/91-IRB-2, dated 25-6-1991 for adjudication of the following dispute :—

"Whether the action of the management of Bank of Baroda Regional Office, Ahmedabad City region II Ahmedabad in terminating the services of the workman Shri Rajuji Kalubhai is legal and justified? If not, to what relief the workman is entitled to?"

2. The facts giving rise to the above reference are not much in dispute. The worker was serving as a Diffari in the Bank of Baroda. He remained absent for a pretty long period. Hence the Bank initiated a departmental inquiry against the employee concerned and ultimately dismissed him from service on 1st November, 1985 as the worker did not appear even during the inquiry. This order of termination has been challenged by the worker and, therefore, this reference.

3. The worker has filed a statement of claim Ex. 7, inter alia, contending that he was suffering from some mental disease and, therefore, he was not able to attend the duties. It is mentioned therein that he had out of mental derangement left the house and his family members also did not know his whereabouts. It is further contended that in the departmental inquiry he was not given sufficient opportunity to defend himself and, therefore, the inquiry proceedings are

bad in law. It is further contended that the worker had sufficient cause to remain absent and, therefore, the order of termination is harsh.

4. The Bank has filed a written statement and resisted the claim, *inter alia*, contending that the absence from duty was for a long period. It is further contended that he was given sufficient opportunity but he had not turned up. It is further contended that the son of the employee had applied for job on the assumption that his father was not likely to resume his duties. It is further contended that enough opportunity was given to the employee. It is further contended that in case the Tribunal comes to the conclusion that departmental proceedings are bad in law on account of any technical ground, the Bank may be given opportunity to justify the order of termination.

5. At the time of hearing it was conceded that the absence was for a long period. The worker had produced some documentary evidence to show that he was suffering from mental disease. An inquiry was made from the Advocate representing the Bank whether the Bank was satisfied with the work of the employee and whether they have got any dissatisfaction about his work, it was reported that the Bank has no grievance about the nature of the worker etc. The Bank has got only objection that the absence was for a long period and, therefore the Bank had no alternative but to take such an action as if any sympathy was shown to him, it may amount to precedent in other cases. Considering the facts of the case, it was felt that this was a fit case wherein the Bank should show grace and take back the employee in service without back wages. It is a matter of great satisfaction to this Tribunal that Shri R. D. Dave, the learned Advocate for the Bank and the Bank Officer have been able to persuade the higher authorities and have rendered a service which can be said to be a social service. Because of their efforts they have been able to convince the Bank to take him back in service. The terms suggested by the Bank has been acceptable to the employee also. The Officers of the Bank are required to be complimented for showing grace.

The parties have filed the terms of the compromise at Ex. 11. The terms considering the peculiar facts are not only quite just but more favourable to the employee. Hence the reference requires to be disposed of a settled between the parties as per Ex. 11. Hence the following Order :—

ORDER

Parties to abide by the terms of settlement mentioned in the purshts Ex. 11. Exhibit 9 and 11 to be oe of the part of the Award.

Sd./- N. A. CHAUHAN, Industrial Tribunal

Sd./-
(N. K. PATEL, Secy.)

Ahmedabad, 12th February, 1992.

BEFORE THE HONOURABLE INDUSTRIAL TRIBUNAL
(CENTRAL) AT AHMEDABAD

REF. : (I.T.C.) No. 41 OF 1991.

Bank of Baroda, Ahmedabad —First Party.

V/s.

Rajuji K. Chavda, Former Daftary, Bank of Baroda,
Vasna Road Branch, Ahmedabad

—Second Party

MAY IT PLEASE THE HON'BLE INDUSTRIAL
TRIBUNAL

The parties hereinabove have negotiated the disputes involving the present reference and after protracted negotiations have arrived at an amicable settlement. The terms of Settlement are as under :—

TERMS OF SETTLEMENT

1. The first-party-Bank agrees to reinstate the second-party-workman Shri Rajuji K. Chavda in the services of the first party-bank on the post of Peon on the second party-workman executing an Undertaking in favour of the first-party-Bank to the effect that the second-party-workman shall not repeat similar misconduct of remaining absent

without leave and without prior permission and shall not abandon the services without taking prior permission. The second party, on fulfilling the aforesaid requirements, shall be posted by the first party-Bank at any of the branches in the Zone wherever such vacancy exists within ten days from the date of Award in terms or Settlement.

2. The second-party-workman agrees to forego his claim of backwages and other incidental benefits for the period in question till his date of reinstatement and shall not raise any dispute for the same in future.

3. The parties hereinabove agree that the period of unauthorised absence and the period between the date of termination (abandonment of service) and the date of reinstatement would be treated as 'leave without pay' and the second party-workman agrees that the said period referred to hereinabove shall not be qualified and considered for any increment, retrenchment compensation, gratuity, provident fund and such other benefits.

4. The parties hereinabove agree that fixation of the salary of the second-party-workman shall work out as under which would be payable at the time of reinstatement :—

Salary last drawn Nov. 85.		Salary to be fixed	
Basic	Rs. 760.00	Basic	Rs. 1470.00
D.A.	Rs. 664.10	D.A.	Rs. 1152.00
Sp. Allow.	Rs. 66.00	H.R.A.	Rs. 176.00
H.R.A.	Rs. 105.25	C.C.A.	Rs. 75.00
C.C.A.	Rs. 60.00	Wash. Allow.	Rs. 15.00
Wash. Allow.	Rs. 15.00		
Total	Rs. 1668.35		Rs. 1898.00

5. The second-party-workman agrees that he shall not claim any special allowance and will not insist on giving posting on such post carrying special allowance. However, the first-party Bank agrees to consider the second-party workman for the post carrying special allowance in future as and when such post falls vacant.

6. The parties herein agree that this Settlement is arrived at between the parties hereinabove by way of full and final settlement of all the claims, rights and disputes of the second-party-workman involved in the present reference

7. The parties hereinabove request the Hon'ble Tribunal to pass an award in terms of the present Settlement and dispose of the reference accordingly.

8. The parties have agreed and accepted to the aforesaid terms and conditions of the Settlement and as a mark of acceptance thereof have placed their signatures herein below :—

This 11th day of
January, 1992, at Ahmedabad.

Sd./- (Illegible).

For Bank of Baroda, Ahmedabad,
First Party.

Sd./-
(R. K. CHAVDA), Workman,
Second Party.

Sd./-
Advocate for the First-Party.

Sd./-
Advocate for the Second-Party.

नई दिल्ली, 6 मार्च, 1992

का.ग्रा. 978:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार श्री दिग्विजय सीमेंट कं. लि., जी.पी. (जि. जामनागर) के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, अहमदाबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को प्राप्त हुआ था।

[संख्या एल-24011/9/85-डी-III (बी)]

बी.एम. डेविड, डेस्क अधिकारी

New Delhi, the 6th March, 1992

S.O. 978.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal AHMEDABAD as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Shree Digvijay Cement Co. Ltd., G. P. (Distt. Jamnagar) and their workmen, which was received by the Central Government.

[No. I-24011/9/85-D.III (B)]

D. M. DAVID, Desk Officer.

ANNEXURE

BEFORE SHRI A. B. PATEL, PRESIDING OFFICER,
INDUSTRIAL TRIBUNAL, AHMEDABAD.

Reference (ITC) No. 23 of 1985

ADJUDICATION

BETWEEN :

Shree Digvijay Cement Co. Ltd., Digvijay Nagar, Distt.
Jam Nagar, Gujarat. ...First Party.

AND

The Workmen employed under it represented by the
General Secretary, Digvijay Cement Mazdoor Sangh,
Gop Mines, Distt. Jamnagar, Gujarat.

...Second Party.

Whether the action of the Management of Shree Digvijay Cement Co. Ltd., G. P. (Distt. Jam Nagar) in not regularising 23 workmen as per list attached to the order is justified. If not, to what relief are the workmen entitled?

APPEARANCES :

Shri S. C. Rangwala and Meenaben Shah—for the first party.

Shri G. K. Rathod—for the second party.

AWARD

This reference has been referred by Shri M. L. Mehta, Under Secretary, Government of India, Ministry of Labour, New Delhi by his Order No. 24011(9)/85-D.II(B), dated 16-5-1985. The order is as under :

Whereas the Central Government is of opinion that an industrial dispute exists between the employers in relation to the management of Shree Digvijay Cement Co. Ltd. and their workmen in respect of the matters specified in the Schedule and whereas the Central Government considers it desirable to refer the said dispute for adjudication ;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947 (14 of 1947), the

Central Government hereby refers the said dispute for adjudication to the Industrial Tribunal, Ahmedabad, constituted under section 7-A of the said Act, with the specification that the said Tribunal shall submit its award within a period of six months, in accordance with sub-section (2-A) of section 10 of the said Act.

2. By Ex. 4, management of the first party has produced Vakalatnama of Shri S. C. Rangwala and B. B. Vakil. By Ex. 5, General Secretary, Shri Meruram Chaudhari of Digvijay Cement Mazdoor Sangh Employees, Jam Nagar has produced Vakalatnama of Shri H. K. Rathod and Shri G. K. Rathod. By Ex. 6, the second party—the Union has produced the statement of claim by Ex. 8. The first party—the Company has produced detailed statement. By Ex. 12, second party—the Union has examined Bheruram Rajuram. The Union has also examined by Ex. 13, Shri Khimabhai Mepabhai. By Ex. 13/1 the Union has closed its evidence. By Ex. 14, the Company has produced the Pay Register for the period October, 1985 to October, 1987. By Ex. 17, the Company has examined Shri Vikram Hariharan. By Ex. 23, the Company has produced licence which is legal upto 14-5-1991 and by Ex. 24, the Advocate of the Co. has stated that the Company does not want to desire to lead any further orders or evidence in this reference.

3. Thereafter, this reference was transferred to me by the Competent Authority and the parties were informed by notice dated 12-6-1991. That this reference has been posted for adjudication before the Industrial Tribunal of Shri A. B. Patel.

4. On 17-6-1991, Shri G. K. Rathod has produced a Purshis by Ex. 27 to take this reference on the Board and for passing an order at Ex. 27. The matter was fixed on the Board of this Tribunal on 17-6-1991. Thereafter by Purshis Ex. 28 the Advocate of the second party—the Union has stated that the demand as made in the reference has been satisfied to certain extent and the second party—the Union now does not want to proceed further with this reference and the second party—the Union desires to withdraw this reference and requested the Industrial Tribunal to dispose of the reference by passing proper order. As the Advocate of the second party—the Union does not want to proceed with this reference any further and he wants to withdraw the reference. I grant permission to the Advocate of the second party—the Union to withdraw this reference and in this manner, I dispose of this reference by this award. This award to be come into effect after one month of its publication by the Central Government. No order as to costs.

Sd/-

Illegible
(Secretary)

Ahmedabad, 29th June, 1991.

A. B. PATEL, Presiding Officer.

नई दिल्ली, 10 मार्च, 1992

का.ग्रा. 979:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, श्री एम. अन्नादुरई कान्द्रेक्टर पैरीमानुगलूर लाईम स्टोन माईन्स श्रीयालूर एंड अनादर के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण मद्रास के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-3-92 को प्राप्त हुआ था।

[संख्या एल-29011/40/90-आई.आर. (विविध)]

बी.एम. डेविड, डेस्क अधिकारी

New Delhi, the 10th March, 1992

S.O. 979.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Madras as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Thiru S. Annadurai, Loading Contractor, Perianagalur Limestone Mines, Ariyalur and another and their workmen, which was received by the Central Government on the 10-3-92.

[No. L. 29011/40/90-IR(Misc.)]

B. M. DAVID, Desk Officer

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL, TAMIL NADU, MADRAS

Wednesday, the 26th day of February, 1992

PRESENT :

Thiru M. Gopalaswamy, B.Sc., B.L., Industrial Tribunal.
Industrial Dispute No. 13 of 1991

(In the matter of the dispute for adjudication under Section 10(1)(d) of the Industrial Disputes Act, 1947 between the workmen and the Management of Tamil Nadu Minerals Limited, Madras-5 and another.)

BETWEEN

The workmen represented by
the General Secretary,
Tamil Nadu Minerals Loading Thozhilalar Munneera Sangam, Perianagalur Limestone Mines,
Ariyalur Taluk, Trichy District-621704.

AND

1. Thiru S. Annadurai, Loading Contractor,
Perianagalur Limestone Mines,
No. 26, Ramalinga Mudaliar Street,
Ariyalur-621704.
2. The Managing Director,
Tamilnadu Minerals Limited,
TWAD Building,
No. 31, Kamarajar Salai, Chepauk, Madras-600005.

REFERENCE :

Order No. L-29011/40/90-IR(Misc.) dated 6-3-91 of
Ministry of Labour, Government of India.

This dispute coming on this day for final disposal upon perusing the reference and other connected papers on record and the workmen being absent, this Tribunal passed the following :—

AWARD

This dispute between the workmen and the management of Thiru S. Annadurai, Loading Contractor, Perianagalur Limestone Mines, Ariyalur and Tamilnadu Minerals Limited, Madras-5 arises out of a reference under section 10(1)(d) of the Industrial Disputes Act, 1947 by the Government of India in its Order No. L-29011/40/90-IR(Misc.), dated 6-3-91 of the Ministry of Labour, for adjudication of the following issue :

"Whether Shri S. Annadurai, Loading Contractor, M/s. Tamilnadu Minerals Ltd., is justified in not paying bonus to the workmen for the accounting year 1989-90. If not, to what relief the workmen are entitled?"

(2) Parties were served with summons.

(3) In spite of several adjournments, the Petitioner-Union did not file its claim statement.

(4) Today also when the dispute was called, the petitioner-Union was absent and no claim statement was filed.

(5) Hence, Industrial Dispute is dismissed for default.

Dated, this 26th day of February, 1992.

THIRU M. GOPALASWAMY, Industrial Tribunal

नई दिल्ली, 10 मार्च, 1992

का.आ. 980:— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, हल्दिया डॉक कॉम्प्लेक्स के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कलकत्ता के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-3-1992 को प्राप्त हुआ था।

[संख्या एल-32011/11/89-आई.आर. (विशेष)]
बी.एम.डेविड, डेस्क अधिकारी

New Delhi, the 10th March, 1992

S.O. 980.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Calcutta as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Haldia Dock Complex and their workmen, which was received by the Central Government on the 10th March, 1992.

[No. L-32011/11/89-IR(Misc.)]

B. M. DAVID, Desk Officer

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
AT CALCUTTA

Reference No. 27 of 1990

PARTIES :

Employers in relation to the management of Haldia Dock
Complex;

AND

Their Workmen.

PRESENT :

Justice Manash Nath Roy, Presiding Officer.

APPEARANCES :

On behalf of Management : Mr. Ranadhis Chowdhury,
Assistant Manager (P.&I.R.).
On behalf of Workmen : None.

STATE : West Bengal.

INDUSTRY : Dock.

AWARD

The management of Haldia Dock Complex (hereinafter referred to as the said Complex), under Calcutta Port Trust (hereinafter referred to as the said Trust) included the Infra Structure the Civil Facilities Division in their circular dated May 13, 1989 as issued, inviting applications from eligible candidates for the post of Assistant Administrative Officer, Grade-II though the said Division is included in the existing Recruitment Rules of the said post. Justifiability of such action was referred for adjudication before the Tribunal, by an Order of Reference No. L-32011/11/89-IR(Misc.) dated October 17, 1990, issued by the Appropriate Government, in exercise of their powers under Section 10(1)(d) and Section 2(A) of the Industrial Disputes Act, 1947 (hereinafter referred to as the said Act).

2. After receipt of usual notices, it appeared that on May 21, 1991, Mr. K. K. Roy Ganguly, Vice-President of the Calcutta Port and Shore Mazdoor Union (hereinafter referred to as the said Union), appeared for the workman concerned and nobody appeared for the management. On that date, on the prayer of Mr. Roy Ganguly, the time to file the written statement, was extended. It also appeared that on June 11, 1991, the said Mr. Roy Ganguly prayed for further extension of time to file the Written Statement, which was allowed. On that date also, nobody appeared for the management and on July 2, 1991, Mr. Ranadhis Chowdhury, Assistant Manager of the said Complex, appeared for the management and same appearance continued on behalf of the workman. On that date also, on the prayers of Mr. Roy Ganguly, the time to file the Written Statement was extended. Then, on July 24, 1991, the said Mr. Chowdhury appeared for the said Complex and neither there was any appearance on behalf of the workman concerned nor Written Statement was filed. But on that date, he said Mr. Chowdhury

intended to file some documents in the case and prayed for necessary leave, which was allowed. It would further appear, on August 19, 1991, there was appearance entered on behalf of both the parties and the management filed the documents, in terms of the directions as given and the case was adjourned to September 19, 1991, for ex-parte hearing. The notices of such hearing, as would appear from the records, were duly served on the said Union, also on August 16, 1991 and even then, no one appeared for the workman concerned. The case was further adjourned to December 12, 1991, as the Management was not also ready for such ex-parte hearing. The notices for such ex-parte hearing were again duly served on the said Union on October 16, 1991, yet, on the date of hearing on December 18, 1991 as fixed, nobody appeared for the workman and Mr. Chowdhury, appearing for the said Complex, tendered his evidence through MW-1 Basab Kumar Roy Chowdhury, who at the relevant time, was working in the Administrative Department of the said Complex. It was his evidence that there is a post of Assistant Administrative Officer Grade II and the said post belong to the Administrative Division and was created to cater administrative support to the Administrative Division and other operational Divisions viz. Marine Division, P.E. Division and I.&C.F. Division. It was also the evidence of this witness that there is a Recruitment and Promotional Rules for the employees of the said Complex and he produced Exhibit M-1, which is shown as the Calcutta Port Trusts' Employees (Haldia Dock Complex) Recruitment, Seniority and Promotion Regulation 1985. The witness has further deposed that as per those existing Rules and guidelines, the incumbents working in non-technical post for more than 5 years under the Divisions as mentioned above are entitled to the promotion to the post of Assistant Administrative Officer, Grade-II and such incumbents were to work in the non-technical posts, as per revised scale of Rs. 1300 to Rs. 2460 which prior to revision, was Rs. 800 to Rs. 1456. He has also stated that in the original Regulation, there is a Schedule for eligibility, as shown in Exhibit M-1 and more particularly in serial No. 6 at page 63 of the said exhibit. He further stated that the said Schedule will also show that a minimum period of working is necessary. It was his further evidence that eligible persons must be of Class-III cadre and Assistant Administrative Officer Grade-II, is in the entry level of Class II and those posts were filled up once and such filling, was perhaps made in 1989 and the incumbents were posted under the Marine Operation Department. It was also stated by him that before filling up of such posts, a circular was issued to the concerned Divisions, for information of the concerned persons and the said circular on being produced, was marked as Exhibit M-2.

3. It was further stated by the witness that Exhibit M-1 has been unamended once, since the original Regulation of 1985 was found to be inadequate and he produced Exhibit M-3, which is a proceeding of the second meeting of the Trustees of the said Trust, held on January 20, 1989, for transacting the business as indicated therein. In fact, the witness indicated that serial No. 14 of Part III of Exhibit M-3 would be relevant for the purpose. It has also been deposed by him that of the two posts as filled up, one was from the Marine Operation Division and the other from I.&C.F. Division, since the concerned incumbents fulfilled the eligibility tests for the post. The witness has further referred to a document Exhibit M-4, which according to him, was sent to the Desk Officer, Ministry of Surface Transport, with regard to the promotion to the post of Assistant Administrative Officer Grade II and has stated that the authorities have received the approval of the concerned Scheme by the document dated July 30, 1990 (Exhibit M-5). He has further deposed that Exhibit M-3, was really the decision of the said Trust.

4. After leading the above evidence, Mr. Chowdhury closed his evidence and the case was fixed for argument on February 27, 1992 and on that date also, nobody appeared for the workmen.

5. After placing the exhibits, it was submitted by Mr. Chowdhury that from the attending circumstances as appearing, it appeared that normally promotion was given from Assistant Administrative Officer, Grade-II, but that created certain anomalies, as a result whereof, the Scheme was amended and it was submitted by him that ultimately, the Ministry concerned, has accepted the Scheme as indicated

above. It was further pointed out by him that such approval has also been subsequently notified by the concerned Ministry. In fact, Mr. Chowdhury, produced a zerox copy of a letter dated December 11, 1991, which was received by the said Trust alongwith the notification, published in a Gazette of India (Extraordinary) dated July 24, 1991, in support of his statement as recorded earlier. Since, it is a Gazette Notification, I feel that the same can be looked into and considered, although not tendered through any witness.

6. As indicated earlier, there was no statement filed either by workman concerned or by the said Union and in fact, the evidence as tendered and recorded, has gone without any challenge in the circumstances as indicated earlier. It would also appear that the Scheme in question was found favour with the appropriate Ministry and the same has been accepted and given effect to. As there was no contrary evidence available, I feel that on the basis of the submissions as made on behalf of the said Complex or as recorded earlier, the Scheme as confirmed now by the concerned Ministry, will not be required to be interfered with and as such, the Reference cannot be answered in the affirmative i.e. in favour of the workmen concerned. Such being the position, the Reference should be and is hereby rejected.

7. Let the zerox copy of the Ministry's letter alongwith the Annexure as produced later, be kept in the record.

This is my Award.

Dated, Calcutta.

The 28th February, 1992.

MANASH NATH ROY, Presiding Officer

नई दिल्ली, 10 मार्च, 1992

का.आ. 981.- औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, इंडियन आयल कारपोरेशन लि. (मार्केटिंग डिविजन) के प्रबन्धन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कलकत्ता के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 9-3-92 को प्राप्त हुआ था।

[संख्या एन-30011/8/91-आई. आर. (विविध)]

बी. एम. डेविड, डेस्क अधिकारी

New Delhi, the 10th March, 1992

S.O. 981.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Calcutta as shown in the Annexure in the industrial dispute between the employers in relation to the management of India Oil Corporation Ltd., (Marketing Divn.) and their workmen, which was received of the Central Government on the 9-3-92.

[No. L-30011/8/91-IR(Misc)]

B. M. DAVID, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
AT CALCUTTA

Reference No. 29 of 1991

PARTIES :

Employers in relation to the management Indian Oil Corporation Ltd., (Marketing Divn.)

AND

Their Workmen

PRESENT:

Mr. Justice Manash Nath Roy, Presiding Officer.

APPEARANCE:

On behalf of management—Mr. D. Mukhopadhyay,
Advocate.

On behalf of the workmen.—Mr. Ashoke Nath, Secre-
tary of the Union.

STATE : West Bengal.

INDUSTRY : Petroleum

AWARD

By Order No L-30611/8/91-IR (Misc) dated 10-10-1991, the Government of India, Ministry of Labour referred the following dispute to this Tribunal for adjudication:

"Whether the employers of I.O.C. (Marketing Division) Eastern Region have been denied the uniform or its necessary cost for the year 1986 and 1988 by the management? If yes, what relief they are entitled to?"

2. Today, the parties have filed a joint petition stating that they have settled all their disputes by a memorandum of understanding dated 25th February, 1991, a copy whereof is enclosed with the petition. They have also prayed for an Award in terms of that memorandum of understanding.

3. After going through the memorandum of understanding and the petition as filed, I do not any unreasonableness and as such in terms of the prayers, I dispose of the reference by directing that let the copy of the memorandum of understanding as filed do form part of this Award as Annexure-A.

4. This is disposal of the reference.

Dated, Calcutta,

The 27th February, 1992.

MANASH NATH ROY, Presiding Officer

ANNEXURE—A

BEFORE THE CENTRAL GOVT. INDUSTRIAL
TRIBUNAL, CALCUTTA

Reference No. 29 of 1991

Employees in relation to the Management of Indian Oil
Corporation Ltd. (Marketing Division).

AND

Their Workmen

The humble petition on behalf of both the parties most
respectfully.

Sheweth :—

1. That the Ministry of Labour, Govt. of India has referred the following dispute to this Learned Tribunal for adjudication

"Whether the employees of I.O.C. (Marketing Division) Eastern Region hence been denied the uniform or its necessary cost for the year 1986—88 by Management? If so, what relief they are entitled to?"

That the Management of Indian Oil Corporation Ltd. and the Workmen represented by the Indian Oil Employees Union, Eastern Branch already have settled the dispute by a Memorandum of Understanding dated 25-1-91 copy of which is annexed. Both the parties are jointly praying before this learned Tribunal for passing an Award accordingly.

It is, therefore, humble prayed that the learned Tribunal may pass an Award as aforesaid in the above reference.

And for this act of kindness your petitioner are in duty bound shall ever pray.

Matter Illegible/-

MEMORANDUM OF UNDERSTANDING

Parties : Management.

Shri M. A. Pathan, S. M. Eastern Region.
Union :

Shri M. K. Roy Chowdhury, General Secy. Indian Oil
Employees' Union, Eastern Branch, Calcutta.

The parties mentioned above, after prolonged discussions reached the following understanding with a view to resolve the existing I.R. problems in Eastern Region.

1. UNIFORM

1. For summer uniform 1988 to 1990 and winter uniform for 1988 and 1989.

— Male workers will be entitled to a Lumpsum amount of Rs. 4700. However, amount/cost of cloth already received by the workers on this account will be adjusted.

— Female workers will be entitled to a Lumpsum amount of Rs. 4700. However, amount already received by female workers on this account will be adjusted.

1.2. For winter uniform 1990 both male and female workers will be paid, in addition to above, in terms of uniform agreement dt. 3-10-90.

1.3. For the year 1986, female workers who have drawn an advance equal to 75 per cent of their entitlement towards summer uniform, will now be paid the balance amount of 25 per cent.

1.4. The winter uniform cloth available in stock with the Corporation will be offered to the workers at cost price. The union assured that the same will be purchased by the workers.

2. Standard rent at Barauni.—It is agreed that standard rent for the purpose of House rent recovery will be in line with the practice followed by the Barauni Refinery for those workers who have been provided accommodation at Barauni Refinery Complex. This will be effective from 1-10-89. This is considered as a special case and will not be quoted as a precedent by the Union, in future.

3. Cases of two Graduates Employed as Peons.—Sharvasri Tapas Mazumdar and J. B. Gupta who were originally appointed as peons have since been promoted as typist-clerk with effect from 6-10-1989. Their cases have been considered sympathetically by the Management and they will be given one increment effective from 6-10-89 and their pay will be fixed accordingly.

4. Casual Workers.—Regularisation of casual workers in a phased manner is already in process as discussed with the union. This process will continue. There is no grievance from the Union on this account.

5. Employment of Dependents of Deceased Employees.—Employment of dependents of deceased employees have been done as discussed with the Union. This is a continuous process. The Union has no grievance on this account.

6. Security Guards (Ex. Anapol).—Presently the issue of Security Guards (Ex. Anapol employees) in Calcutta Offices is pending with Conciliation Machinery. Both the parties will pursue the said issue in these forums.

7. General.—7.1. Both the parties agreed to co-operate in creating healthy climate of Industrial Relations. Union agreed to withdraw the current agitational activities with immediate effect with a view to maintain smooth supplies of product and productivity.

7.2. Both the parties agreed that with this Memorandum of understanding, the aforesaid issues covered under the Memorandum of Settlement at 29-9-89 stand resolved.

Signed at New Delhi, on 25th January, 1990

(M. A. PATHAN). (M. K. ROY CHOWDHURY).
General Manager, General Secretary,
Indian Oil Corporation Ltd., Indian Oil Employees' Union,
Eastern Region, Calcutta.

नई दिल्ली, 9 मार्च, 1992

का.प्र. 982.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण अहमदाबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 9-3-92 को प्राप्त हुआ था।

[संख्या एल-12012/121/87-डी II (ए)]

मुसाफ चन्द शर्मा, डेस्क अधिकारी

New Delhi, the 9th March, 1992

S.O. 982.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Industrial Tribunal, Ahmedabad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of State Bank of India and their workmen, which was received by the Central Government on 9-3-82.

[No. L-12012/121/87-D-II(A)]

S. C. SHARMA, Desk Officer

ANNEXURE

BEFORE SHRI V. H. THAKORE, PRESIDING OFFICER
INDUSTRIAL TRIBUNAL, AHMEDABAD

Reference (ITC) No. 64 of 1987

ADJUDICATION :

BETWEEN

State Bank of India, Ahmedabad, ..First party.

AND

The Workmen employed under it. ..Second party.

In the matter of demand for reinstatement in service of Shri Rameshkumar Nanalal Patel with full back wages in the State Bank of India, Gavada Village Branch.

APPEARANCES :

Shri Bhushan Oza, Advocate—for the first party.

Shri M. C. Bhatt, Advocate—for the second party.

AWARD

An industrial dispute between State Bank of India, Ahmedabad (hereinafter referred to as 'the Bank') and the workmen employed under it was referred for adjudication

to Shri A. N. Ram, Industrial Tribunal, Ahmedabad u/s. 10(1)(a) of the Industrial Disputes Act, 1947 (hereinafter referred to as 'the Act') by the Desk Officer, Ministry of Labour, Govt. of India, New Delhi under his order No. L-12012/121/87-D-II(A) dated 26-11-87 and on the retirement of Shri A. N. Ram, it has been subsequently transferred to this Tribunal. The dispute relates to the demand regarding reinstatement in service of Shri Ramesh Kumar Nanalal Patel with full back wages in the State Bank of India, Gavada Village Branch. The exact terms of the reference are as under :

"Whether the action of the Management of State Bank of India, Ahmedabad in terminating the services of Shri Rameshkumar Nanalal Patel is justified? If not, to what relief is the workman concerned entitled?"

2. After the receipt of this reference in this Tribunal, the parties were issued usual notices calling upon them to file their respective statements and the same were duly served on them. The second party has filed the statement of claim at Ex. 5. It has been, inter alia, stated that the concerned workman, Shri Rameshkumar Nanalal Patel is physically handicapped on his right leg on account of attack of Polio during his childhood and he was employed by the Branch Manager of Gavada Village Branch Distt. Mehsana of State Bank of India as a messenger in 1978 and initially he was appointed on a temporary basis and he was discharging his duty sincerely and diligently and he did work for 155 days and he was being paid daily wage of Rs. 5. It has been stated that he was relieved of his service by an oral order of the Branch Manager of the Bank's Branch in March 1979 and as the said action of the Bank's Manager was illegal and improper and arbitrary, he repeatedly requested to continue him in service, but his request was not heeded to under one pretext or the other. It has been also stated that when he worked for a period exceeding 90 days he ought to have been made permanent in the service and though he has been a handicapped person, great injustice has been done to him by relieving him from service. It has been further stated that another person has been appointed in his place and thereby he has been made to suffer irreparable loss and his life has been ruined. So, he approached the Union and made grievance about the aforesaid facts and thereupon the Union requested the Bank to reinstate him in service, but that was not complied with and thereafter the concerned workman approached the Asst. Labour Commissioner and made a complaint about it, but no conciliation could be arrived at and failure report was submitted to the Central Govt. and then this reference was made to this Tribunal. It has been, therefore, prayed that the action of the Bank in relieving the concerned workman from his service be declared illegal and improper and the Bank be directed to reinstate him in service with full back wages. It has been also prayed to grant any such other relief as deemed just and proper. It has been further prayed for the costs of this reference.

3. The Bank has filed its written statement at Ex. 8. It has contended that the reference is made after inordinate delay as the same is made after a lapse of 7 years and hence the same be rejected. It has denied that the concerned workman is a physically handicapped person on account of attack of polio during his childhood on his right leg. It has also denied that he was employed by its Branch Manager of Gavada Branch as a messenger in May 1978 and initially he was appointed on temporary basis and he was discharging his duty sincerely and diligently and he did work for 155 days he was being paid daily wage of Rs. 5. It has further denied that he was relieved of his service by an oral order by its Branch Manager in March, 1979 and the said action was illegal, improper and arbitrary and so he repeatedly requested to continue him in service, but his request was not heeded under one pretext or the other. It has denied that as he worked for a period exceeding 90 days he ought to have been made permanent in the service and injustice has been done to him by relieving him from service as he is a handicapped person. It has also denied that another person has been appointed in his place and thereby he has been made to suffer irreparable loss and his life has been ruined. It has further denied that after the concerned workman approached the

Union a request was made on behalf of the Union to reinstate him in service and as that was not complied with the concerned workman approached the Asstt. Labour Commissioner and made a complaint about it and as no conciliation could be arrived at a failure report was submitted to the Central Govt. and then this reference was made.

4. Now the version of the Bank is that a new branch was opened at village Gavada, Tal. Vijapur, Dist. Mehsana during the year 1978 and as it was a small branch, the staff sanctioned was one Branch Manager, one Clerk, one Messenger and one Sweeper and accordingly, Branch Manager and Clerk were appointed, but the post of messenger was to be filled on permanent basis by recruiting a candidate of S.C./S.T. as per the Bank's Regulations and till that appointment was made by its Head Office by way of stop gap arrangement local person was to be appointed on a temporary basis so that the daily work of the said branch might not suffer and no inconvenience might be caused and though correspondence for permanent appointment was initiated by its Branch Manager it was likely to take some time for appointment of the person belonging to S.C./S.T. and so the concerned workman being a local person was temporarily engaged on daily wages basis as and by way of stop gap arrangement till permanent appointment was made by its Head Office and for that purpose no interview or other approved formalities were gone through as required under the Bank's Regulations. Its further version is that after the permanent appointment was made to the said post, the services of the concerned workman were no more required and so he was relieved of his duty and thus the concerned workman's service was not terminated by it on the ground of any misconduct and as the concerned workman did not work for a period of 240 days he was not entitled to any retrenchment compensation, notice pay or any other amount in accordance with the law nor the Bank is liable to pay the same. According to it, the concerned workman worked only for 155 days and that too also as and by way of stop gap arrangement till permanent appointment of the candidate belonging to S.C./S.T. was made and as permanent appointment had been already made by its Head Office, the concerned workman was relieved of his work in accordance with the law and thus its action was quite legal and proper and justifiable in law. It has, therefore, prayed that the concerned workman is not entitled to the demands as made and the reference be rejected with costs.

5. Now, the oral evidence of the concerned workman, Shri Rameshkumar Nanalal Patel has been recorded at Ex. 11 and he has produced one document with list Ex. 6 and it is at Ex. 7. As against this, no oral evidence is led on behalf of the Bank nor it has produced any documentary evidence.

6. Now the evidence of the concerned workman, Shri Rameshkumar Nanalal Patel is to the effect that he is physically handicapped on his right leg on account of attack of polio during his childhood. He has stated that he joined service of Gavada Branch of the Bank as a messenger in May 1978 and he was discharging his duty efficiently and he did work for 155 days and he was relieved during 1979 and during his service he was being paid at the rate of Rs. 5 per day. He has also stated that he was not given any compensation at the time when he was relieved and after he was relieved he met the Branch Manager for continuing him in service to which he was told that it would be seen but it was not heeded to. He has further stated that thereafter he approached the Asstt. Labour Commissioner and made a complaint about it and ultimately, the Central Govt. made this reference. His demand is that he should be reinstated in service. While his cross examination reveals that he worked for 155 days on a daily wage basis as a messenger in the said branch during the period May 1978 to March 1979 and it was temporary and after the permanent appointment was made on that post he was relieved. His cross examination also reveals that when he joined the service the said branch was newly started and at that time only one Branch Manager and one Clerk were as other members of the staff and they all were residing in that village and there was no permanent appointment of messenger and as he belongs to that village he was temporarily appointed. His cross examination further reveals that the said Branch used to remain close at

the end of a week and he was being paid on daily wages basis and after he was relieved he was doing labour work and he was earning Rs. 12 to Rs. 15 per day. This is in short the oral evidence of Shri Rameshkumar Nanalal Patel.

7. However, it was urged by Shri Oza, the learned Advocate for the Bank that the concerned workman was being engaged as a messenger in Gavada Branch of the Bank on temporary basis as and by way of stop gap arrangement as that Branch was newly started and at that time only two permanent members of the staff were appointed, namely, Branch Manager and a Clerk, while no other permanent staff members were appointed and so the concerned workman being a local person was engaged as a messenger on purely temporary basis on daily wages of Rs. 5 till permanent incumbent was appointed on that post and he worked for only 155 days during the period May 1978 to March 1979 and as permanent appointment to that post was made he was relieved of his service and so the action of the management of the Bank in relieving him of his service is quite justified and he is not entitled to be reinstated in service with full back wages. Shri Oza has also relied on the decision of Gujarat High Court rendered in the case of State Bank of India vs. M. V. Raval reported in 1981 (1) SLR, page 831 in support of his aforesaid contention. I think there is considerable force in the aforesaid contention of Shri Oza.

8. Now the facts as stated above are not at all in dispute and not only the same are admitted by the concerned workman during the course of his evidence but also corroborated by the xerox copy of the certificate produced by him vide Ex. 7. The contents of it reveal that the Branch Manager of Bank's Gavada village branch issued a certificate dt. 18-8-86 to the effect that the concerned workman worked as temporary messenger on daily wages in the branch for 155 days during the period May 1978 to March 1979. When the concerned workman worked as temporary messenger on daily wages in the said branch for only 155 days during the period from May 1978 to March 1979 then the concerned workman is not entitled to the benefits of Sec. 25-F of the Act because it is an admitted fact that he did not satisfy the test of deemed continuous service within the meaning of Sec. 25-B of the stipulated period of 240 days and, therefore, he would not be entitled to get the benefit of Sec. 25-F of the Act. Unless it is shown that the termination amounted to retrenchment within the meaning of Sec. 2(oo) of the Act and the said retrenchment being contrary to sec. 25-F read with sec. 25-B, the concerned workman would not be entitled to any such benefits regarding retrenchment or reinstatement in service. Even that is very clear on plain reading of the aforesaid relevant provisions of the Act as well as on the case law based on the subject and cited by Shri Oza. In that view of the matter, the action of the Management of the Bank in terminating the services of the concerned workman is quite justified and he is not entitled to any of the reliefs as claimed. Hence, I pass the following order :

ORDER

The reference is rejected. The demand relating to the concerned workman, Shri Rameshkumar Nanalal Patel to the effect that the action of the Bank in terminating his services is illegal and improper and not justifiable and for a direction for his reinstatement in service with full back wages and for payment of retrenchment compensation is rejected. No order as to costs.

SECRETARY

Ahmedabad, 23rd January, 1992.

V. H. THAKORE, Industrial Tribunal

नई दिल्ली, 10 मार्च, 1992

का.प्रा. 983.- औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्वय में, केन्द्रीय सरकार, भारतीय स्टेट बैंक के प्रबन्धन के संश्लेषण नियोजकों और उनके कर्मचारों के बीच, अन्वय में निर्दिष्ट औद्योगिक

विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नं. 2, मुम्बई के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 9-3-97 को प्राप्त हुआ था।

[संख्या एल-12012/288/85 डी II (ए)]

सुभाष चन्द शर्मा, डेस्क अधिकारी

New Delhi, the 10th March, 1992

S.O. 983.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, No. 2 Bombay as shown in the Annexure, in the industrial dispute between the employers in relation to the management of State Bank of India and their workmen, which was received by the Central Government on the 9-3-1992.

[No. L-12012/288/85-D.II (A)]

S. C. SHARMA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, AT BOMBAY

PRESENT :

Shri P. D. Apshankar, Presiding Officer.
Reference No. CGIT, 2/2 of 1987

PARTIES :

Employers in relation to the Management of State Bank of India, Aurangabad

AND

Their Workmen.

APPEARANCES :

For the Employer—No appearance.

For the Workmen—No appearance.

INDUSTRY : Banking STATE : Maharashtra
Bombay, the 19th February, 1992

AWARD—PART-II

1. The Central Government by their order No. L-12012/288/85-D.II (A) dated 13-1-1987 have referred the following industrial dispute to this Tribunal for adjudication under Section 10(1)(d) of the Industrial Disputes Act, 1947.

SCHEDULE

“Whether the action of the State Bank of India in relation to its Dhule Branch, Aurangabad, in dismissing from service Shri B. N. Thakur Cashier-cum-Clerk, State Bank of India, Dhule Branch with effect from 9-8-1984, is justified? If not, to what relief is the workman concerned entitled?”

2. The necessary Issues were framed at Ex. 4. The Issue No. 1 was tried as a preliminary Issue. That issue was thus :

(i) Whether the inquiry officer came to the wrong and incorrect conclusions against the workman, on the basis of the evidence placed before him?

3. By the Award part I passed on 30-9-1991 this Tribunal held that the conclusion arrived at by the Enquiry Officer on the basis of the oral and documentary evidence placed before him, holding the workman guilty of charge No. 1, was just, proper and correct. It was further held by the Tribunal that the enquiry held against the workman was held properly, that he was given proper opportunity to defend himself, and that the rules of natural justice was properly followed.

4. The charge No. 1 against the workman was thus :

“That as per the complaint from Shri Ramkishan R. Khandelwal, dated 7-10-1981, an over payment of Rs. 1,000 was accepted against two Income Tax Challans tendered through his son on 14-9-1981 and the excess payment was not refunded to Shri Khandelwal.”

5. Thus, the Enquiry Officer found, after holding the proper enquiry against the Workman, that the workman had received an over payment of Rs. 1,000 from the customer and did not return that amount to him. As per the case of the 740GI/92—4

Bank Management, the customer Shri Khandelwal was to deposit the amounts of Rs. 1230 and 1750, i.e. the total amount of Rs. 2980 into the bank against the two income tax Challans, but through inadvertence the customer handed over the amount of Rs. 3980 to the Workman, and as such, handed over an excess amount of Rs. 1,000 to the Workman, but the Workman did not immediately return back that amount to the customer. As such it is quite clear from the record that the workman committed misappropriation in respect of that excess amount of Rs. 1,000, even though he later on paid the amount of Rs. 1,000 to that customer. Even then the workman should not have accepted the excess amount of Rs. 1,000 from the customer and should have returned that amount of Rs. 1,000 to him immediately, which was paid to the workman by the customer only through inadvertence. Therefore, the misconduct on the part of the workman is really of a serious nature. By not immediately returning the extra amount of Rs. 1,000 received by the workman, the bank customers have lost faith in the honesty and integrity of that workman. The bank employees should be honest and of good moral character, so that the customers can have faith in the bank management, and the bank employee. Therefore the action of the Bank Management in dismissing the workman Shri B. N. Thakur, Cashier-cum-Clerk, from the Bank's services is quite just and proper. Issue No. 2 is therefore found in the affirmative. As such issue No. 3 does not survive.

6. After the Award Part I was passed, fresh notices were issued to both the parties regarding the further hearing of the case. However both the parties remained absent. Even then, for the reasons mentioned above, the following Award is passed :

AWARD

The action of the State Bank Management in relation to its Dhule Branch, Aurangabad, in dismissing from service Shri B. N. Thakur, Cashier-cum Clerk, State Bank of India, Dhule Branch with effect from 9-8-1984, is legal, just and proper.

The parties to bear their own costs of this Reference.

P. D. APSHANKAR, Presiding Officer

नई दिल्ली, 10 मार्च, 1992

का.श्रा. 984 :- औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार हाड़ीती क्षेत्रीय ग्रामीण बैंक के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण कोटा (राजस्थान) के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 9-3-92 को प्राप्त हुआ था।

[संख्या एल-12012/10/88 डी IV (ए)/डी III (ए)]

सुभाष चन्द शर्मा, डेस्क अधिकारी

New Delhi, the 10th March, 1992

S.O. 984.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Kota (Rajasthan) as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Hadoti Kshetriya Gramin Bank and their workmen, which was received by the Central Government on the 9-3-1992.

[No. L-12012/10/88-D.II (A)/D.III (A)]

S. C. SHARMA, Desk Officer

अनुबन्ध

न्यायाधीश, औद्योगिक न्यायाधिकरण, कोटा/राज./ निर्देश
प्रकरण क्रमांक: (केन्द्रीय) औ. न्या.-6/1988

स्थापित : 28/11/89

प्रसंग : भारत सरकार, श्रम मंत्रालय, नई दिल्ली की अधि-
सूचना संख्या एल-12012/10/88-डी /ए/डी-3(ए)
दिनांक 21-11-88

औद्योगिक विवाद अधिनियम, 1947

मध्य

महामन्त्रि, हाड़ोती क्षेत्रीय ग्रामीण बैंक एम्प्लॉईज
अनियन, शास्त्रीनगर, दादाबाड़ी, कोटा ।

—प्रार्थी युनियन

एवं

अध्यक्ष, हाड़ोती क्षेत्रीय ग्रामीण बैंक, नयापुरा, कोटा ।

—प्रतिपक्षी नियोजक

उपस्थित

श्री जगदीश नारायण शर्मा,

आर.एच.जे.एस.

प्रार्थी युनियन की ओर से प्रतिनिधि :—श्री दिनेशराय द्विवेदी
एवं हिम्मत सिंह (स्वयं श्रमिक)

प्रतिपक्षी नियोजक की ओर से प्रतिनिधि :—श्री एम.सी.गुप्ता
अधिनिर्णय दिनांक : 4 फरवरी, 1992

अधिनिर्णय

भारत सरकार, श्रम मंत्रालय द्वारा निम्न निर्देश औद्योगिक
विवाद अधिनियम, 1947 की धारा 10 (1) (घ) व
उपधारा (2-क) के अन्तर्गत इस न्यायाधिकरण को अधि-
निर्णयार्थ संप्रेषित किया गया है :—

“Whether the action of the management of Hadoti
Kshetriya Gramin Bank, Kota is justified in ter-
minating the services of Sh. Himmat Singh on
14-5-85, 5-8-86 and 13-2-87. If not, what relief
the said workman is entitled to?”

2. निर्देश प्राप्त होने पर दर्ज रजिस्टर किया गया व पक्षकारों
को सूचना भिजवाई गयी तदुपरान्त दोनों पक्षों की ओर से
अभ्यावेदन प्रस्तुत किये गये ।

3. इस प्रकरण में दिनांक 3-2-92 को श्रमिक हिम्मत
सिंह की ओर से उसके अधिकृत प्रतिनिधि श्री दिनेशराय
द्विवेदी ने प्रार्थना पत्र पेश कर प्रकट किया कि प्रार्थी श्रमिक
को प्रतिपक्षी नियोजक द्वारा नौकरी पर वापस रखना स्वीकार
कर लिया गया है, इस कारण वह अब इस विवाद को आगे
नहीं चलाना चाहते हैं तथा विवाद रहित अधिनिर्णय पारित
किये जाने का निवेदन करते हैं । आज प्रतिपक्षी नियोजक के
प्रतिनिधि ने भी उपस्थित होकर श्रमिक प्रतिनिधि द्वारा प्रस्तुत
उक्त प्रार्थना पत्र व कथन पर कोई आपत्ति प्रकट नहीं की ।
अतः उक्त परिस्थितियों में इस प्रकरण में “विवाद रहित
अधिनिर्णय” पारित किया जाता है ।

इस अधिनिर्णय को भारत सरकार, श्रम मंत्रालय को
नियमानुसार प्रकाशनार्थ भिजवाया जाये ।

जगदीश नारायण शर्मा, न्यायाधीश

नई दिल्ली, 11 मार्च, 1992

का.आ. 985:— औद्योगिक विवाद अधिनियम, 1947
(1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय
सरकार तमिलनाडु मरकनटाईल बैंक लि. के प्रबन्धतंत्र
के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध
में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक
अधिकरण, वक्तम न्यायालय बंगलौर के पंचपट को प्रकाशित

करती है, जो केन्द्रीय सरकार को 10-3-1992 को प्राप्त
हुआ था ।

[संख्या एल-12012/73/89-आई. आर. (बैंक-1)]

मुभाप चन्द शर्मा, डेस्क अधिकारी

New Delhi, the 11th March, 1992

S.O. 985.—In pursuance of Section 17 of the Industrial
Disputes Act, 1947 (14 of 1947), the Central Government
hereby publishes the award of the Central Government
Industrial Tribunal-cum-Labour Court, Bangalore as shown
in the Annexure, in the industrial dispute between the em-
ployers in relation to the management of Tamilnadu Mer-
cantile Bank Ltd. and their workmen, which was received
by the Central Government on 10-3-1992.

[No. L-12012/73/89-IR (Bank-I)]

S. C. SHARMA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated the 6th day of March, 1992

PRESENT :

Sri M. B. Vishwanath, B.Sc., LLB. Presiding Officer.
Central Reference No. 73 of 1989

I PARTY :

V. A. Rajan and M. Kasiraj,
represented by the
Branch Secretary,
Tamil Nadu Mercantile
Bank Employees' Union,
Gulbarga.

Vs.

II PARTY :

The Deputy General Manager,
Tamilnadu Mercantile
Bank Ltd.,
Madras Region,
Madras.

In this reference No. L-12012/73/89-IR (Bank-1) dated
17th October 1989 made by the Hon'ble Central Government
in exercise of the powers conferred by clause (d) of Sub-
Section (1) and Sub-section (2-A) of Section 10 of the
Industrial Disputes Act, 1947 (14 of 1947), the point for
adjudication as per Schedule to reference is :—

“Whether the action of the management of Tamilnadu
Mercantile Bank Limited in terminating the services
of Sri V. R. Rajan and M. Kasiraj w.e.f. 13-5-1989
without assigning any reasons is justified ? If not,
to what relief the workmen concerned are entitled
to ?”

AWARD

Subsequently, the members of the I Party and the II
Party have filed a Joint Memo signed by both the Advocates.
As per the Joint Memo the matter has been settled between
the parties. I have carefully perused the Joint Memo. As
desired in the Joint Memo, the reference is rejected as settled
out of Court. The Joint Memo shall form part of the
award rejecting the reference.

(Dictated to the Secretary (I/c), taken down by him, got
typed and corrected by me).

M. B. VISHWANATH, Presiding Officer

Dated : 6-3-1992.

BEFORE THE PRESIDING OFFICER, CENTRAL GO-
VERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT BANGALORE

C.R. No. 73 of 1989

(1) V. A. Rajan, Plot No. 540, K.K. Nagar, Madurai-
625202.

Applicant

(2) M. Kasiraj, 158, 3rd Chekkadi Street, Kovilhatti-
627701.

Applicant

Vs.

The Deputy General Manager, Tamil Nadu Mercantile
Bank Limited, Madras Region, Madras-6

Respondent

JOINT MEMO FILED BY THE APPLICANTS AND
SIGNED BOTH ADVOCATES

The Applicants above named most respectfully submit as follows :

- (1) The Respondent Bank had at the end of our probationary period relieved us from service because of our failure to equip and qualify ourselves adequately for confirmation as clerks in the Bank.
- (2) Against the termination the Branch Secretary of the Tamilnadu Mercantile Bank Employee's union, Gulgarga Branch, Mr. V. Mohandoss has raised an industrial dispute against the Bank which is presently pending before this Hon'ble Court. Mr. V. Mohandoss raised the dispute without the concurrence or consent of the Applicants.
- (3) Since the Applicants have fully settled the dispute with the Bank and as they are no more interested to pursue the case before this Hon'ble Court, it is earnestly prayed that the Hon'ble Court may kindly be pleased to dismiss the dispute as settled out of court and thus render justice.

Applicants

1. Sd/-

2. Sd/-

Dated : 6-3-1992.

BEFORE THE PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

C.R. No. 73 of 1989
Memo filed by the Applicants

APPLICANTS

1. V. A. Rajan,
Plot No. 540, K.K. Nagar,
Madurai-625020.
2. M. Kasiraj,
158, 3rd Chekkadi Street,
Kovilpatti-627701.

RESPONDENT

The Deputy General Manager,
Tamilnadu Mercantile Bank Ltd.
Madras Region,
Madras-6.

नई दिल्ली, 16 मार्च, 1992

का.आ. 986:- औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नेशनल शुगर इन्स्टीट्यूट कानपुर के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-3-92 को प्राप्त हुआ था।

[सं. एन-42012/46/90-आई. आर. (डी.यू.)]

के.वी.बी. उन्नी, डेस्क अधिकारी

New Delhi, the 16th March, 1992

S.O. 986.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of National Sugar Instt. Kanpur and their workmen which was received by the Central Government on 11-3-1992.

[No. L-42012/46/90-IR (DU) (Pt.)]

K. V. B. UNNY, Desk Officer

ANNEXURE

BEFORE SRI ARJAN DEV, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, PANDU NAGAR, KANPUR

Industrial Dispute No. 276 of 1990

In the matter of dispute :

BETWEEN

Sri Rajendra Swarup C/o Karamchari Sangthan Rashtriya Shakar Sansthan Bharat Sarkar 517 III Gate Kanpur-208016.

AND

Director,

Rashtriya Shakar Sansthan,
Khadya avam Nagrik Purti Mantralaya
Bharat Sarkar Kanpur-208017.

AWARD

1. The Central Government, Ministry of Labour, vide its Notification No. L-42012/46/90-IR (DU) dated 27/30-11-90 has referred the following dispute for adjudication to this Tribunal :—

Whether the action of the management of National Sugar Instt. Kanpur in stopping one year annual increment of Sri Rajinder Swaroop Chowkidar and also not paying him full wages for his suspension period is, from 19-12-87 to 25-5-89 is justified? If not, to what relief the workman is entitled to?

2. On 22-8-91, the case was ordered to proceed for filing of affidavit evidence on behalf of the workman when he failed to avail of the opportunity for filing of the rejoinder in the case. Notice to this effect was also sent to the workman, but despite that he failed to file affidavit evidence till 3-2-92. It is important to mention that on 18-12-91 the representative for the workman filed rejoinder alongwith the application for permission to file rejoinder. The case was ordered to come up on 3-2-92 for disposal of the application seeking permission to file rejoinder in the case. On 3-2-92 none appeared from the side of the workman to press the application moved on 18-12-91.

3. Thus from the above it appears that neither the Union nor the workman himself is interested in prosecuting the case any more. As such a no claim award is given against the Union/workman.

4. Reference is decided accordingly.

ARJAN DEV, Presiding Officer

नई दिल्ली, 16 मार्च, 1992

का.आ. 987:- औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दलहन अनुसंधान कल्याणपुर के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-3-92 को प्राप्त हुआ था।

[सं. एन-42012/108/90-आई. आर. (डी.यू.)]

के.वी.बी. उन्नी, डेस्क अधिकारी

New Delhi, the 16th March, 1992

S.O. 987.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Dulhan Anusandhan Kalyanpur and their workmen, which was received by the Central Government on 11-3-1992.

[No. L-41011/54/90-IR (DU)]

K. V. B. UNNY, Desk Officer

ANNEXURE

BEFORE SRI ARJAN DEV, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, PANDU NAGAR, KANPUR

Industrial Dispute No. 40 of 1991

In the matter of dispute :

BETWEEN

Sri Jai Siya Ram,
C/o Karamchari Sangh
Dalhan Anusandhan Nideshalaya,
517 Devi Sahai Nagar,
III Gate Kanpur.

AND

Pariyojna Nideshak,
Dalhan Anusandhan Nideshalaya,
G.T. Road Kalyanpur Kanpur.

AWARD

1. The Central Government, Ministry of Labour, vide its Notification No. L-42012/108/90-I.R. (DU) dated 3-4-91, has referred the following dispute for adjudication to this Tribunal :—

Kya Nideshak Dalhan Anusandhan Kalyanpur Kanpur Dwara Bhutpurva Karamkar Sri Jai Siyaram ki dinak 20-7-85 se sewa mukti karna nyaochit hai ? Yadi nahi to sambandhit karmkar kis anutosh ka haqdar hai ?

2. In this case dates 21-6-91, 16-8-91, 24-9-91, 11-11-91 and 16-12-91 were given to the workman for filing the statement of claim in the case but despite availing of sufficient opportunity the workman did not file claim statement. On 28-1-92 when the case was taken up for hearing again the workman did not turn up nor he filed claim statement.

3. Thus from the conduct of the workman it therefore appears that the workman is not interested in prosecuting the case. As such a no claim award is given in the case.

4. Reference is answered accordingly.

ARJAN DEV, Presiding Officer

नई दिल्ली, 16 मार्च, 1992

का.आ.988 :- औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार उत्तर रेलवे इलाहाबाद के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-3-92 को प्राप्त हुआ था।

[सं.एल.-41012/590-आई. आर. (डी.यू.)
के.वी. बी. उष्णी, डैस्क अधिकारी

New Delhi, the 16th March, 1992

S.O. 988.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Northern Railway Allahabad and their workmen, which was received by the Central Government on 11-3-1992.

[No. L-41011/54/90-IR (DU)]

K. V. B. UNNY, Desk Officer

ANNEXURE

BEFORE SHRI ARJAN DEV, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, PANDU NAGAR, KANPUR

Industrial Dispute No. 251 of 1990

In the matter of dispute :

BETWEEN

Zonal Working President,
Uttar Railway Karmchari Union,
96/196, Roshan Bajaj Lane, Ganeshganj,
Lucknow.

AND

Divisional Railway Manager,
Northern Railway,
Allahabad.

AWARD

1. The Central Government, Ministry of Labour, vide its Notification No. L-41012/5/90-I.R. (DU) dated 24-10-90, has referred the following dispute for adjudication to this Tribunal :

"Whether the DRM Northern Railway was justified in not promoting Shri Siya Ram, Electric Pump Driver Fazalganj, Kanpur, as highly skilled Grade II w.e.f. 1-1-84 ? If not, what relief he is entitled to ?"

2. In the instant case on 25-9-91 the case was ordered to proceed for exparte as the management failed to appear in the case and it did not filed the W.S. The case was thus taken up for hearing on 18-11-91, when it was adjourned to 17-12-91 on the application of the Union. Again on 17-12-91 none appeared for the management and Union filed affidavit evidence in the case and the case was ordered to came up on 30-1-92.

3. On 30-1-92 none was present on behalf of the Union for press the claim. It therefore appears that the Union is not interested in prosecuting the case.

4. Therefore in the circumstances a no claim Award is given in the case.

5. Reference is answered accordingly.

ARJAN DEV, Presiding Officer

नई दिल्ली, 16 मार्च, 1992

का.आ. 989:- औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार उत्तर रेलवे लखनऊ के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कानपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 9-3-92 को प्राप्त हुआ था।

[सं.एल.-41011/54/90-आई. आर. (डी.यू.) (पीटी)]
के.वी.बी. उष्णी, डैस्क अधिकारी

New Delhi, the 16th March, 1992

S.O. 989.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Northern Railway Lucknow and their workmen, which was received by the Central Government on 9-3-1992.

[No. L-41012/5/90-IR (DU)]

K. V. B. UNNY, Desk Officer

ANNEXURE

BEFORE SRI ARJAN DEV, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-
CUM-LABOUR COURT, PANDU NAGAR, KANPUR

Industrial Dispute No. 148 of 1991

In the matter of dispute :

BETWEEN

The Assistant General Secretary,
Uttar Railway Karamchhari Union,
39-II-J Bahumanjalya Colony,
Charbagh Lucknow.

AND

Dy. Chief Signal and Communication Engineer,
(Construction) Uttar Railway,
Lucknow.

AWARD

1. The Central Government, Ministry of Labour, New Delhi, vide its Notification No. L-41011/54/90-I.R. (DU) dated 18-9-91, has referred the following dispute for adjudication to this Tribunal :—

Whether the Dy. Signal and Telecommunication Engineer (Construction) Northern Railway, Lucknow, and D.P.O. Northern Railway Lucknow are justified in not regularising S/Sri Phool Chand son of Hansraj Guru Prasad S/o Shri Sant Prasad and Phool Chand (II) S/o Shri Vishwanath as wireman and last two as Khalasi w.e.f. 2-6-78, 7-7-78, and 20-7-78 respectively? If not, what relief the workmen concerned are entitled to?

2. In this case despite issue of notice none appeared from the side of the Union/workmen to press the reference order. No claim statement was filed till 5-2-91. On 22-11-91 Sri J. N. Srivastava appeared from the side of the management when the case was adjourn to 23-12-1991 for filing of statement of claim on behalf of the Union/workmen. Again on 23-12-91 Sri Hamid Quereshi appeared from the side of the management and filed his letter of authority, but none appeared from the side of the Union. Thus from the conduct of the Union it appears that it is not interested in prosecuting its case.

3. Therefore, in view of the above, a no claim award is given against the Union/workmen.

4. Reference is answered accordingly.

ARJAN DEV, Presiding Officer

नई दिल्ली, 11 मार्च, 1992

का.आ. 990.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नीमचा कोलियरी आफ मैसर्स ईस्टर्न कोलफील्ड लि., के प्रबन्धन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कलकत्ता के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 10-3-92 को प्राप्त हुआ था।

[संख्या एल-19012/69/86-डी IV (बी)]

राजा लाल, ईस्क अधिकारी

New Delhi, the 11th March, 1992

S.O. 990.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Calcutta as shown in the Annexure in the

Industrial Dispute between the employers in relation to the management of Nimcha Colliery of M/s. Eastern Coalfields Ltd. of their workmen, which was received by the Central Government on the 10-3-92.

[No. L-19012/69/86-D.IV(B)]

RAJA LAL, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
AT CALCUTTA

Reference No. 17 of 1988

PARTIES:

Employers in relation to the management of Nimcha Colliery of M/s. Eastern Coalfields Limited.

AND

Their Workmen

PRESENT:

Mr. Justice Manash Nath Roy Presiding Officer

APPEARANCE :

On behalf of management—Mr. R. S. Murthy, Advocate.
On behalf of workmen—None.

STATE : West Bengal

INDUSTRY : Coal

AWARD

Over the action of the Agent of Nimcha Colliery of Eastern Coalfields Ltd. (hereinafter referred to as the said employer), in superannuating Shri R. P. Roy (hereinafter referred to as the said employee), who was the Foreman-in-Charge, with effect from February 6, 1986, the appropriate government, by an order of Reference No. L-19012/69/86-D.IV(B) dated February 23, 1987, made under Section 10(d)(1) and (2A) of the Industrial Disputes Act, 1947 (hereinafter referred to as the said Act), referred the matter to this Tribunal, for adjudication.

2. After the usual notices, parties to the dispute, entered appearance and filed their pleadings and then, tendered evidence, both oral and documentary. It should be noted that the said employee was represented by the Koyla Mazdoor Congress (hereinafter referred to as the said Union), who filed a written statement dated June 23, 1987, contending inter alia amongst others that the said employee commenced his services in the concerned coal field of the said employer in April 1959, when the said Colliery was under the management of Messrs East Lalkidh Colliery Co. Ltd., and as per Mines' Regulation, that employer, maintained the service particulars of the said employee, including age, in the statutory Register.

3. It has been stated that the said employee, at the time of employment at Nimcha colliery, declared his date of birth as 1931 and perhaps that was recorded in the Form 'B' Register, pertaining to the year 1959 and such date was duly supported by a School Leaving Certificate dated January 10, 1944, which was also duly authenticated by the said employee.

4. It was contended that after Nationalisation, meaning the Nationalisation of non-coking coal mines, which took place in January 31, 1973 and became effective from May 1, 1973, the said Employer reconstructed the Form 'B' Register in 1981 and got the entries as made, authenticated by the said employee. It has been alleged that the column meant for 'age' was kept blank, with the assurance that the same would be filled in, with reference to the old Form 'B' Register. It has also been alleged that as and when the said employee learnt that his age was wrongly recorded as February 6, 1920, he protested and submitted his School Leaving Certificate dated January 19, 1944, which the said Employer did not consider and then, the said Union took up the cause and ultimately, the present dispute has been referred for adjudication.

5. It should be noted that although the said Union represented the said employee before this Tribunal, but even inspite of the due receipt of about the notice regarding the date fixed for argument, on February 2, 1992, nobody appeared for them and as such, the submissions of Mr. Murthy were heard ex-parte. There was no application for time, filed by the said Union.

6. In the written statement, the said Union has also alleged that during the conciliation proceedings, although the ALC concerned, asked the said Employer to produce both the earlier and present 'B' Form registers, they only produced the present one and indicated that no other registered was available and in the Register as produced, the date of birth of the said employee was shown to be recorded as February 6, 1926, whereas the same should have been on the basis of the School Leaving Certificate, recorded as February 1931 and so, there was admitted alteration of the date of birth of the said employee and that too without any opportunity to him. There is also no dispute that the age of superannuation is 60 years and it has been alleged that by their action, the said Employer, not the said employee superannuated, five years earlier.

7. The action in this case has been claimed to be arbitrary, wrongful, illegal and it has further been alleged, while having the said employee superannuated prematurely, the said Employer, has acted in colourable use and exercise of powers and the action as taken, was against principles of natural justice.

8. There was no dispute or any material variation in the dates of joining to duty by the said employee and the relevant date of taking over and Nationalisation of the concerned colliery. But, the said Employer contended the action of superannuation as given effect to, be due proper legal and in accordance with the terms of service and conditions of employment of the said employee. The said Employer, has of course taken a preliminary objection, of course, not with much substance, regarding the validity of the Reference as made and so also the jurisdiction of this Tribunal, to adjudicate the same or the issues as involved and that the proceeding was barred on application of principles of estoppel.

9. It has been indicated that at the time of his initial appointment, the said employee declared his date of birth as February 6, 1926 in the Form 'B' Register, as maintained under the Mines Act or the Rules framed thereunder and he, in his turn, duly attested the entries made therein, on being appropriately and satisfactorily communicated to him and because of such admission, an affixing the signature without any objection the case of the said employee came under or within the scope of Section 17 of the Indian Evidence Act. It was agreed that the age of superannuation of the said employee was 60 years and taking that age into consideration, read with his recorded date of birth, he was duly superannuation on February 6, 1986 and the age as recorded in the present 'B' Form of the said Employer, as duly maintained, there was no variation in the matter of recording of age of the said employee. It was in fact claimed that the present 'B' Form was duly copied from the 'B' Form Register, as received from his erstwhile Employer of the said employee, after Nationalisation.

10. It has further been indicated that there is admittedly, a joint Bi-partite Committee for Coal Industry, collective bargaining at the National level, which has brought about three successive wage agreements, effective from January 1, 1975, 1979 and 1983 respectively and they have laid down by the implementation Instruction No. 37 dated February 6, 1981 that in cases where there are glaring discrepancies between the age recorded in the 'B' Form Register and any other available records with the Management, such cases should be referred to the Medical Board/Age Assessment Committee, for determination of age. It has also been stated that since there was no discrepancy in the case of the said employee, his case was totally out of the scope of the implementation instructions.

11. The said Employer has also indicated that for the first time, the said employee produced his School Leaving Certificate of 1944, before the Assistant Labour Commissioner (C), when the purported dispute was raised and strangely enough, although the School Leaving Certificate as mentioned, was of 1944 and that was known to him, the said employee, with same ulterior and calculated motive declared his date of birth as February 6, 1931. Such action on the part of the said employee apart from the above, was claimed to be unjustified, improper and motivated. The School Leaving Certificate has been claimed to be a fabricated one.

12. In view of the above facts, the said Employer claimed the prayers of the said employee, to be not maintainable, unjustified, improper, speculative and not bonafide.

13. A rejoinder dated June 15, 1989, was filed by the said Union, wherein material allegations of the written statement of the said Employer, have been denied and bonafides of the action, as taken, were doubted and dispute.

14. The said employee, who deposed as WW-1, stated that when he entered the services in 1947, his date of birth was shown as February 6, 1931 and in support of his age, he produced Ext. W-1, a certificate from a school at Barisal, now in Bangladesh, under the signature of Sri G. C. Dey, Head Master and he could not say, when he joined Nimcha Colliery, whether his birth register was produced. It was his evidence, on detection of the wrong recording of age in 1981, he made representation for necessary correction and he raised the dispute after signing the 'B' Form Register. He claimed that his date of birth was recorded according to the said Ext. W-1. The signature in the 'B' Form Register Ext. M-3 was admitted by the witness and he also produced an Identity Card Ext. W-3, issued by ECL. Which in my view was not vary material on the issue as involved in this case, as the date of birth or the age was not recorded there and the more as when, identity of the said employee was not in dispute. He has of course alleged, in my view, without any substance that when he signed the 'B' Form Register, the column meant relating to age was kept blank. The witness has of course agreed that he produced/gave the said Ext. W-1 in 1981, even though, he possessed the same all-through-out, it was his evidence that he made the representation as in Ext. W-2, as and when, he learnt about the wrong recording of his age in the said Register. The date of the said Exhibit, may either be February 22, 1975 or 1985. Since doubt appeared, because of the manner in which the year was written. The witness admitted that apart from holding supervisory post for 10 to 15 years, he was Foreman-in-charge, for 4 or 5 years. As such, it can be, to my mind, held that he is a literate and knowledgeable person.

15. According to MW-1, Rabindra Nath Bouth, the Senior Personnel Officer of Nimcha Colliery, who proved Ext. M-1 and M-2, from the available 'B' Form Register, it will appear that the said employee was employed since 1947 and at that time, Nimcha Colliery was not in existence. He has stated that employments are given and payments are made to the employees, on the basis of available particulars of the 'B' Form Register and in this case, the present 'B' Form Register Ext. M-2 was appeared on the basis of the Old 'B' Form Register, which is not available now, an receipt of the same from the erstwhile employer of the said employee and which recording, according to him, was correctly made. Pursuant to the leave granted, Mr. Murthy produced the original 'B' Form Register, on February 13, 1992 and the same has been returned after comparing with the xerox copy as filed.

16. On the pleadings and evidence as recorded, Mr. Murthy submitted that no reliance should be placed on Ext. W-1 or the submissions as made on that basis, firstly, as the said certificate was not duly and legally proved, secondly because of the conduct of the said employee in not producing the same at the time, of his entry into service, although he admittedly possessed the same at that time and thirdly, because of the nature and character of the same viz. the paper of the certificate was admittedly old, but the writings seemed to be absolutely fresh, and the certificate was not typed or written on any form of the School concerned. He also contended that from Ext. M-2, it will appear that the said employee, made the said representation, not only after

a long lapse of time, but he made such representation at a very late stage, even assuming his case of late receipt of the knowledge of the wrong recording, is to be believed and because of such delay, adverse inference in terms of Rule 15C of the Mining Rule, should be considered, according to which, representation, if any, should have been made within one year. The Identity Card Ext. W-3, as stated earlier in my view, will of no help and assistance in this case and it further appeared that the present case was not one, covered by the Instructions as indicated earlier. Lastly, Mr. Murthy contended that the delay in this case must be held to be disentitling the said employee from any relief what-so-ever and more particularly when, the said employee contested and sought to represent his case on such wrong recording of wrong date of birth practically at the fag end of his service. In support of his submissions amongst others, Mr. Murthy referred to and relied on the case of Steel Authority of India Vs. Industrial Court, Indore 1987 Lab I.C. 579, where the employee concerned applied for changing his date of birth at the fag end of his service, though there was a circular of the Company that no change in the date of birth should be allowed, if such a request is made within five years of the date of retirement, for any reason what-so-ever. It has been held by a learned Single Judge of the Madhya Pradesh High Court (Indore Bench) that if the employees are allowed to challenge their date of birth in such a manner at any point of time at their whim, it would amount to an interference in the terms of contract of service and hence the circular as issued was found to be reasonable. No doubt, in this case there is no evidence of such circular, but I feel that the basic principle as indicated therein, can be applied in this case. The next case, to which Mr. Murthy placed reliance was a decision of the Administrative member of the Central Administrative Tribunal, Calcutta Bench, in the case of Anand Prosanna Mukherjee Vs. Union of India, 1989 Lab. I.C. 700, where the employee accepted the date of birth as recorded in service roll at the time of appointment and did not protest against the date of birth shown in the graduation list and thereafter, made representation for correction of the date of birth, only when notice of retirement declaring his date of superannuation was sent and it has been held that such prayer could not be allowed. This determination in this case, on application of the basic principle as indicated in the case reported in 1989 Lab. I.C. 579, can also and very easily be applied in this case. The next case, on which Mr. Murthy relied was the case of Indian Central Navigation and Railway Co. Ltd. & Anr. Vs. their workmen 1968(2) L.J. 437, where the principles how the age of retirement has to be reckoned have been indicated by the Supreme Court of India.

17. There is no doubt or any dispute that although at the time of entry, the said employee had with him the School Certificate Ext. W-1 yet he did not disclose that at that time, but only produced the same at a very late stage and more particularly, during the conciliation and as such I feel that he did not act in a bonafide manner and cannot expect to get the advantage of the same, as if that is allowed and disclosure at the fag end of the service is allowed or permitted, that would open flood gates of many unfortunate and speculative proceedings and actions which should be tried to be checked and avoided. Apart from the above it appeared that the said employee, not only accepted his signature in Ext. M-3, but could not disprove the same and even though he alleged to have detected such wrong entry of his date of birth at a late stage, yet he did not duly raise the dispute or lodged any complaint immediately. Such action on his part, was also not bonafide. The conditions and character of the certificate Ext. W-1 is not also free from any doubt, apart from the fact that the same was not duly and legally proved, in so far as the identity of the said employee and the identification of the maker of the same. The Instructions, as indicated earlier, have also no application in the case.

18. In view of the above the reference cannot be answered in the affirmative and in favour of the said employee. As such, the same should be and is hereby rejected.

19. This is my Award.

MANASH NATH ROY, Presiding Officer

Calcutta,

Dated, the 25th February, 1992

नई दिल्ली, 11 मार्च, 1992

कां.ग्रा. 991.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेंटरल कोलफील्ड लि. के प्रबन्धन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कलकत्ता के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 9-3-92 को प्राप्त हुआ था।

[संख्या एल-19012/137/86-डी-IV (बी)]

राजलाल, डेस्क अधिकारी

New Delhi, the 11th March, 1992

S.O. 991.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Calcutta as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Central Coalfields Ltd. and their workmen, which was received by the Central Government on 9-3-92.

[No. L-19012/137/86-D.IV(B)]

RAJA LAL, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

Reference No. 97 of 1988

PARTIES :

Employers in relation to the management of Central Coalfields Limited, Calcutta

AND

Their workmen.

PRESENT :

Mr. Justice Manash Nath Roy, Presiding Officer.

APPEARANCE :

On behalf of Management—Mr. B. Trivedi, Senior Personnel Officer.

On behalf of Workmen—Mr. D. Chakraborty, President of the Union.

STATE : West Bengal.

INDUSTRY : Coal.

AWARD

By Order No. L-19012(137)/86-D.IV (B) dated 29th June, 1987, the Government of India, Ministry of Labour referred the following dispute to this Tribunal for adjudication :

"Whether the action of the management of Central Coalfields Ltd., Calcutta, in having its head office at Ranchi in allowing 17 festival holidays instead of 18 clear festival holidays (whether including or not the one or two clear bank holidays of 30/6 and 31/12 falling not on rest days) in the calendar years 1983, 1984 and 1985 and allowing 17 clear festival holidays (whether including or not the one or two clear bank holidays of 30/6 and 31/12 falling not on rest days) in future also is justified? If not, to what relief the workmen are entitled?"

2. From the joint application as filed on February 26, 1992, it appears that parties have come to a settlement of the dispute and the validity of such would appear from the Annexure 'A' and 'B' of the application.

3. In view of such settlement arrived at, the parties have also asked for disposal of the reference in terms of the said joint application, including Annexures 'A' and 'B' therein.

4. After going through the joint application, I find that the settlement as arrived at is reasonable and as such, I dispose of the reference in terms of the said application as filed. Let that application do form part of this Award as Annexure-A.

MANASH NATH ROY, Presiding Officer

Dated, Calcutta,

The 27th February, 1992.

ANNEXURE-A

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, CALCUTTA

IN THE MATTER OF:

Reference No. 97 of 1988

AND

IN THE MATTER OF:

Govt. Order No. L-19012(137)/86-D-IV(B)
dated 29th June, 1987

AND

IN THE MATTER OF:

Rashtriya Colliery Mazdoor Sangh, Represented by their Workmen (hereinafter referred to as the Union) having its Local Office at 15, Park Street, (3rd floor), Calcutta-700016.

... PETITIONER.

Versus

The Management of Central Coalfields Ltd., having its Local Office at 15, Park Street, (3rd floor), Calcutta-700016.

... OPPOSITE PARTY.

The humble petition of the petitioners and the Opposite Party abovesigned most respectfully—

SHEWETH:

1. That the parties have since come to an amicable settlement as would appear from a copy of the Minutes of the meeting held on 14-11-1991 at Calcutta a copy of which is filed herewith and marked with the letter "A". The parties are not interested to pursue the instant reference any longer.

2. That your petitioners further state that a corrigendum was issued by the Sr. Personnel Officer (A)/SE, CCL, Ranchi being his Letter No. SE/IV/68/RCMS/Cal Br./7680—93 dated 19-12-1991 wherein and whereunder the abovesigned management has clearly assured the Union that the 16 clear festival holidays and two clear restricted holidays for each year will be granted to the workmen under the above management. Copy of the above letter is annexed hereto and Marked with the letter "B".

3. That the Hon'ble Tribunal may be pleased to close the reference by recording the settlement as embodied in the Minutes of the meeting being annexure "A" and in the corrigendum being annexure "B" hereof.

4. This application is made bonafide and for the ends of justice and unless an order is made, as prayed for, your petitioners will suffer irreparable loss and injury.

Hence, it is prayed that the reference be closed and disposed of having been settled out of Court and the copy of the Minutes of the meeting dated 14-11-1991 be kept in the records along with the corrigendum issued by Sr. Personnel Officer (A)/SE/CCL, Ranchi being his letter No. SE/IV/68/RCMS/Cal. Br./7680—93 dated 19-12-1991.

AND

Pass such further or other order or orders as this Id. Court may deem fit and proper.

And your petitioner, as in duty bound shall ever pray.

Sd/- President

Rashtriya Colliery Mazdoor Sangh

B. TRIVEDI, Sr. PO(A)/SE

On behalf of the management
of CCL, Ranchi

ANNEXURE B

CENTRAL COALFIELDS LIMITED,

DARBHANGA HOUSE, RANCHI

No. SE/IV/68/RCMS/Cal. Br./7680—93

Date 19-12-91

In drawing attention to the minutes of the meeting held with RCMS, Calcutta Branch on 14-11-91 at Calcutta as circulated vide No. SE/IV/68/RCMS/Cal Br./1362—88, dated 5-12-91 the item no. 2 should be corrected and read as follows:—

"It is decided the 16 clear festival holidays and two clear restricted holidays as may be declared by CIL for each year for Calcutta Office will be allowed. In view of the above, the union agreed that the dispute pending before the Central Government Industrial Tribunal, Calcutta over this issue will be withdrawn."

B. C. TRIVEDI, Sr. Personnel Officer (A)/SE

DISTRIBUTION:

1. Dir. (T)/(O)/P&P, CCL, Ranchi.
2. Dir. (F), CCL, Ranchi.
3. GM (P&A), CCL, Ranchi.
4. GM (Pers. & Cordin.), CCL, Ranchi.
5. C.M.O., CCL, Ranchi
6. Chief of Security, CCL, Ranchi.
7. GM (MM/F&A), CCL, Ranchi.
8. Dy. CFM, CCL, Calcutta.
9. Dy. CMM(P), CCL, Calcutta.
10. P.M. (Actg.), CCL, Calcutta.
11. P.M., CCL, Calcutta.
12. P.M. (GA), CCL, Ranchi.

CENTRAL COALFIELDS LIMITED,

DARBHANGA HOUSE, RANCHI

No. SE/IV-68/RCMS/Cal. Br./1362—88

Dated, the 5th December, 1991

The Minutes of the meeting held with the representatives of RCMS, Calcutta Branch on 14th November, 1991 at CCL Office, Calcutta at the level of Director (Personnel) is enclosed herewith for information and necessary action.

B. TRIVEDI, Sr. Personnel Officer (A)/SE

DISTRIBUTION:

1. Director (Personnel), CCL, Ranchi.
2. Director (T)(O), CCL, Ranchi.
3. Director (T) (P&P), CCL, Ranchi.
4. Director (F), CCL, Ranchi.
5. General Manager (P&A), CCL, Ranchi.
6. General Manager (Pers. & Coordn.), CCL, Ranchi.
7. General Manager (MM), CCL, Ranchi.
8. Chief Medical Officer, CCL, Ranchi.
9. Chief of Security, CCL, Ranchi.
10. General Manager (F&A), CCL, Ranchi.
11. Dy. Chief Finance Manager, CCL, Calcutta.
12. Dy. Chief Materials Manager (P), CCL, Calcutta.
13. Personnel Manager (Acts.), CCL, Calcutta.
14. Personnel Manager (GA), CCL, Ranchi.
15. Personnel Officer, CCL, Calcutta.
16. Sri D. N. Chakraborty, President, RCMS, CCL, 15, Park St., Calcutta.
17. Sri K. M. Chatteraj, Secretary, RCMS, CCL, 15, Park St., Calcutta.

Minutes of the meeting held between the management of CCL at the level of Director (Personnel), CCL and the representatives of RCMS Union, Calcutta Branch on 14-11-91 at CCL, Calcutta.

Presents:

Representatives of the RCMS, Calcutta Branch:-

1. Shri D.N. Chakraborty, President.
2. Shri K.M. Chattoraj, Secretary.
3. Shri P.R. Ganguly.
4. Shri D.K. Goswami.
5. Sri P. Bhattacharjee.
6. Sri G. Sengupta.
7. Sri Ashim Bhadra.

Representatives of the management:-

1. Sri P.C. Biswas, Director (Personnel).
2. Sri S.K. Ghosh, Dy. General Manager.
3. Sri D.K. Dutta, Dy. Chief P.M.
4. Shri M.N. Ghosh/Legal Manager/TM (Actg)
5. Sri S.K. Dutta, Personnel Officer.

Director (Personnel), CCL welcomed the union representatives for the meeting in the first instance.

During the informal discussion, the following issues were discussed.

1. D(P) desired that in every three months there should be a meeting at the level of Director (Personnel).

2. Regarding local meeting, D(P) told the union representatives that after posting of one regular General Manager in the office, problem of holding periodical meetings at the local level will be resolved.

3. D(P) told that beautification committee will be reviewed. The Committee will comprise of one representative each of the two functioning unions, one member each from the functioning department heads and Legal Manager/PM(Actg), Calcutta.

The following agenda items were discussed.

Sl. No.	Items	Decision of the management
1.	Some rewards to be given to the employees at the time of retirement. In Rajrappa such sanction was given, as informed. This matter was discussed with D(P). CCL and accordingly, a list has been prepared and sent to PO, CCL, Calcutta.	D(P) informed that LM/PM(Actg.), Calcutta has been advised to process a note for the people who will retire from the service upto 31-3-1992 for necessary approval in respect of token rewards raising the amount from Rs. 250/- to Rs. 500/
2.	Festival Holidays case lying in tribunal.	It is decided that 16 clear festival holidays and two restricted holidays as may be declared by CIL for each year for Calcutta Offices will be allowed. In view of the above, the union agreed that the dispute pending before the Central Govt. Industrial Tribunal, Calcutta over this issue will be withdrawn.
3.	Promotion/upgradation of taken over employees working at present in CCL Office, Calcutta.	The case in respect of promotion/upgradation of taken over employees working at present in CCL, Calcutta against supernumery posts should be put up to D(P) immediately for taking final decision.
4.	Filling up of the resultant vacancies.	D(P) informed the Union representative that sincere efforts to fill up the vacant posts of Daftaries, Peon etc. for CCL, Calcutta will be made.
5.	Md. Enatullah and Sk. Mohan should be promoted in the grade of Sr. Daftary as they were deprived of getting increment since 5 years.	D(P) informed the union representative that first of all it is to be ascertained how many vacancies of daftaries/Sr. daftaries are available at CCL, Calcutta and based on the norms fixed for such cases, will be considered along with others.

Sl. No	Items	Decision of the management
6.	Baldeo Ram Peon of taken over employees should also be promoted in the grade of Daftary. He is working in the post of Peon for more than 9 years.	D(P) told the union representative that as soon as Sri Baldeo Ram will complete 10 years of service in the post of Peon according to JBCCI decision, he will automatically be placed in the next higher grade.
7.	Refund of wages of Sunday and paid holidays in case of Wage Board employees in continuous sick leave period.	The matter will be examined and necessary clarification in this regard will be communicated.
8.	CCL, Calcutta Management does not follow the Cadre Schemes while giving any job/distribution of work etc.	D(P) desired that the matter should be resolved at the local level.
9.	When Personnel Officer has been posted, then there is no need of any Personnel Manager (Actg.)	DROPPED.
10.	Implementation of the conciliation agreement dt. 6-6-91 with regard to S/Sri L.M. Ram and D.C. Mistry.	D(P) assured the union representatives that the said cases will be disposed by him.
11.	Case of Smt. Neena Sengupta under clause 9-4-3.	D(P) informed that the case has already been referred to CIL. This is to be pursued.
12.	Irregular promotion order of Accounts may be cancelled.	D(P) intimated the union representatives that the Office Order No. CAO/AD/RNC/87/Prom/2/2619---28 needs to be examined and necessary amendment order is to be issued as per norms.
13.	Posting of Purchase to Sales to be finalised.	D(P) informed the union representatives that the matter is under consideration of the management.

नई दिल्ली, 11 मार्च, 1992

का.आ. 992.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस सी सी लि. के प्रबन्धन के संबंध में निर्यात और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, हैदराबाद के पंचयट को प्रकाशित करती है, जो केन्द्रीय सरकार को 9-3-92 का प्राप्त हुआ था।

[संख्या एल-22012/201/88-डी- IV (बी)]

राजा लाल, ईन्क अधिकारी

New Delhi, the 11th March, 1992

S.O. 992.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Hyderabad as shown in the Annexure in the industrial dispute between the employers in relation to the management of S.C. Co. Ltd. and their workmen which was received by the Central Government on 9-3-1992.

[No. L-22012/201/88-D.IV(B)]

RAJA LAL, Desk Officer

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL AT HYDERABAD

PRESENT :

Sri G. Krishna Rao, B.A., B.L., Industrial Tribunal,
Dated the Fourteenth day of February, Nineteen hundred and ninety two
Industrial Dispute No. 31 of 1989

BETWEEN

The workman of S.C. Co. Ltd.,

Mandamarri Area Mandamarri (AP) Petitioner.

AND

The Management of S.C. Co. Ltd.

Mandamarri Area, Mandamarri (AP). Respondent.

APPEARANCES :

S/Sri C. Bikkshapathi, G. Vidya Sagar, N. Viswanatham, N. Vinesh Raj and K. V. V. Bhaskar, Advocates for the petitioner—workman.

M/s. K. Srinivasa Murthy, G. Sudha, Mitra Das and A. Usha Rani, Advocates for respondent.

AWARD

This is a reference made by the Government of India, Ministry of Labour, New Delhi by its Order No. L-22012 (201)/88-D.IV.B, dated 25-4-89 for adjudication of Industrial Dispute between the management of Singareni Collieries Company Ltd. and their workmen, setting forth the point for adjudication in the schedule appended thereto as follows :

"Whether the action of the Management of M/s. S. C. Co. Ltd., Mandamarri Area in dismissing services of Sri K. Mohan Rao, Clerk Gr. II Kalyanikhani SA Incline w.e.f. 15-5-84 and not paying wages with retrospect effect is justified? If not, to what relief the workman concerned is entitled?"

2. The said reference was registered as I.D. No. 31 of 1989 on this file of this Tribunal. After receiving the notices from this Tribunal, both parties put in their appearance. The petitioner filed his claims statement on 21-8-1989 and the management filed counter on 6-11-1989.

3. The averments of the claims statement filed by the petitioner read as follows :

The petitioner submits that it is a trade union registered under the Trade Union Act. The workman concerned Sri K. Mohan Rao, Clerk Gr. II is a member of the union and his case has been espoused by the petitioner Union. It is submitted that Sri K. Mohan Rao, hereinafter referred to as workman concerned, is appointed as Clerk Grade II in the Singareni Collieries Co. Ltd., with effect from 28-2-1982. The workman was posted to work at Kalyanikham 5A Incline. The workman is a physically handicapped person. He was being asked to work at Manway, But, in June, 1982, he was asked to work in place of Sri G. Nageswara Rao, who is a regular clerk of 'G' Relay Coal Filler, KK-5A Incline. Though, this work is new to the workman, he has been attending and discharging his duties to entire satisfaction of his superiors, to the best of his ability. It is submitted that the workman was issued with a charge sheet on 10-11-1983 with the following charge :

It is reported that he did not enter in the 'H' register the details of leave and payments made to 20 workmen for whom leave with wages were paid on 20-6-1982. His failure to make necessary entries in the register, resulted in the payment of excess leave with pay wages to 16 out of the 20 workmen and drawing leave with pay wages for a second time for the same leave period in respect of 7 workmen in July, 1982 pay sheet. He has not remitted to the company, the unpaid leave with pay amount totalling Rs. 516.40 drawn through the payment paid on 8-7-1982 in respect of Sri Kodari Rayalingu, Posham, Narsaiah and Mukkera Komarajah, Coal Fillers.

The workman submitted his explanation on 12-11-1983 denying the charges. Thereafter an enquiry was conducted by one Sri J. Syam Babu. In the enquiry, two persons were examined on behalf of the management and the workman concerned was examined in his defence apart from examining one Sri V. Siva Rajam, Clerk Gr. II, KK-5A Incline. It was clearly brought out in the evidence that the workman is not responsible for the alleged irregularities and there is no evidence to establish the guilty of the workman. The findings of the Enquiry Officer are not furnished to the workman. It is further submitted that another charge sheet was issued to the workman on 11-12-1983 alleging the following charge :

"It is found that you had not remitted leave with pay amount of Rs. 55.62 drawn through the leave with pay, pay sheet paid on 20-9-1983, in respect of Sri A. D. Narayana, Badli worker, even though you have written as 'unpaid' against his name with your own handwriting."

The workman submitted his explanation on 16-12-1983 denying the charge. He reiterated in the explanation that the said amount was disbursed to the concerned workman and there is no complaint from the workman. Hence, the charges are not sustainable. However, the enquiry was conducted and Sri J. Syam Babu, was appointed as Enquiry Officer. One Sri R. Ramakrishnaiah was examined on behalf of the management. The workman examined himself and examined Sri A. D. Narayana Badli worker in his defence. In the enquiry, Sri Narayana, clearly stated that he has received the amount and that he has not made any complaint about the non-payment to the management. However, no enquiry findings were furnished to the workman. On the basis of the evidence adduced in the enquiry the charges ought to have been dropped. While the workman was under impression that the charges were dropped, the respondent issued a letter dated 7-5-1984 dismissing him from service in the ground that the charges levelled against the workman were proved. It is submitted that the said dismissal order is illegal, contrary to law and in gross violation of standing orders of the company.

GROUND

- (i) The charges framed in charge sheet dated 10-11-1983 and 11-12-1983 are vague and do not conform under the standing orders of the company.

- (ii) The enquiry was conducted in utter disregard to the principles of natural justice and fair play in action.
- (iii) The enquiry officer converted himself as a Prosecutor and tried to examine the workman thereby he has acted as prosecutor and judge in this case.
- (iv) The charge sheet issued by the Superintendent of Mines, Kalyanikham, No. 5A Incline is illegal and incompetent as the said officer is not competent to issue any disciplinary action on the workman much less issue the charge sheet. Hence, the entire enquiry conducted in pursuance of the incompetent charge sheet is void-abinitio.
- (v) Even on the face of the enquiry, the charges cannot be held to be proved.
- (vi) The findings of the Enquiry Officer are quite perverse and run counter to the evidence on record.
- (vii) The respondent did not give any independent findings and the mechanically proceeded with the matter as if the workman is guilty of charges.
- (viii) The past record of workman was not at all considered except making superficial mention in the order of dismissal. Hence failure to consider the past record vitiates the entire proceedings.
- (ix) The dismissal order is passed with retrospective effect which is illegal and contrary to law.
- (x) The enquiry conducted in respect of the charges is vitiated by various irregularities and informatics.
- (xi) The Executive Director who passed the order of dismissal did not initiate the disciplinary proceedings by issuing the charge sheet. Therefore, the said officer failed to exercise the power vested in it under the Standing Orders of the Company.
- (xii) In any event, the punishment of dismissal is highly excessive and gross disproportionate to the gravity of misconduct alleged to have committed by the workman.

It is submitted that the workman is unemployed ever since the date of his illegal termination and he could not secure any employment in spite of his best efforts. It is therefore prayed that the Honble Court may be pleased to set aside the orders of dismissal in No P. BPA/129/1237, dt 7-5-84 as illegal and unjustified and consequently pass an award directing the respondent management to reinstate the workman into service with full back wages and other attendant benefits and grant such other relief or reliefs as this Honble Court deems fit and proper under the circumstances of the case.

4. The averments of the counter filed by the respondent read as follows :

At the outset this respondent denies the various allegations made in the claim petition except those are admitted herein to be correct and the petitioner is put to strict proof of the same. Paragraph-1 being reference read no reply. With reference to para-2 the petitioner is put to strict proof that the workman in dispute belongs to the petitioner union and during the relevant period he is a member. The petitioner union is put to strict proof that it is competent to espouse the case of the workman in dispute Sri K. Mohan Rao, Clerk Grade-II, Kalyanikham 5A Incline. With reference to para-3 it is true that Sri K. Mohan Rao was appointed as Clerk in Grade II on 28-2-1982 and he was posted at Kalyanikham 5A Incline. It is also true that he is physically handicapped. He was working at Manway in June, 1982. Because of one Sri G. Nageswara Rao, Clerk who was the regular pay sheet clerk of G-Relay Coal Fillers, gone on leave management for administrative convenience posted the workman in dispute to work as pay sheet clerk for G. Relay coal fillers and he is meant to prepare the pay sheets of coal fillers of G-Relay of KK-5A Incline. Preparation of pay sheets is also one of the clerical works. The allegation that the workman in dispute was new to the pay sheet work is not correct.

The further allegation that the workman in dispute has been discharging his duties to the entire satisfaction of his superiors to the best of his ability is not correct and the petitioner is put to strict proof of the same. With reference to para-4 it is true that a charge sheet on 10-11-1983 was issued to the workman in dispute as he was negligent in discharging his duties and not made necessary entries in H-Register because of which management was constrained to pay 16 workmen leave with pay wages though they are eligible and also the workman totalling to Rs. 516.40. As such the respondent company issued a charge sheet under Standing Orders 16(2) and 16(6). With reference to para 5 after the receipt of the charge sheet the workman in dispute submitted explanation denying the charges therein. As the management was not satisfied with the explanation given, appointed Sri J. Shyam Babu, Personnel Officer, as Enquiry Officer to conduct the enquiry. The Enquiry Officer gave full and fair opportunity to the workman during the enquiry. The workman himself conducted the case and participated in the enquiry. Management examined two witnesses and workman examined one Shiva Raju and also examined himself. The allegation during the enquiry it was clearly throughout that this workman is not responsible for the alleged irregularities is not correct. The further allegation that there is no evidence to establish the guilt of the workman is not correct. The petitioner to suit to his own convenience has chosen to make all these false allegations. It may be noticed a copy of the proceedings and findings were received by the workman and a copy of the enquiry findings on 12-6-1983 by Sri K. Mohan Rao. Only to prejudice the case of the management the petitioner made the false allegation stating that the enquiry proceedings and findings of the Enquiry Officer have not been given to the petitioner and the petition is put to strict proof of these allegations. With reference to paras 6, 7 and 8, it may be noticed subsequent to the first misconduct management came to know about the other misconduct which came into light on inspection of records. On 11-12-1983 issued another charge sheet under Company's Standing Order 16(2) for misappropriation of Rs. 55.62 on 20th September, 1983. It is respectfully submitted on receipt of this record charge sheet the workman submitted his explanation on 16-12-1983 denying all the charges and the management as has not satisfied with the explanation, once again appointed Sri J. Shyam Babu as Enquiry Officer to conduct the enquiry. The management examined Sri Ramakrishna and workman examined Sri Narayana and fully participated in the enquiry. The petitioner has chosen to take a defence that Narayana has not made any complaint for non-payment of leave wages to the management. That is not going to support his case. It may be noticed the Union Secretary, Sri Bangaru Sarma received the findings given by the Enquiry Officer on behalf of the workman on 29-8-1984. As such the allegation that no Enquiry findings were furnished to the workman is not correct. The petitioner has fully participated in the enquiry. After receipt of the enquiry proceedings and findings of the enquiry officer the management looked into both the enquiry files applied its mind and past record and dismissed the employee on 7-4-1984. The allegation that the charges ought to have been dropped is not correct. Misappropriation and also intentionally causing loss to the management by omissions and commissions in normal course of duties is treated as serious misconduct, and the order passed by the management is according to law. The allegation that the dismissal order is illegal, contrary to law and in gross violation of Standing Orders is not correct. With reference to Ground (i) the allegation that the charge sheets are vague and are not conforming to the standing orders are not correct and the petitioner is put to strict proof of the same. With reference to grounds (ii) and (iii) the allegation that the enquiry was not conducted as per principle of natural justice and fair play in action is not correct. The workman in dispute as well as the workman-petitioner have fully participated in the enquiry. The allegation that the Enquiry Officer converted himself as a prosecutor and tried to examine the workman and that thereby he has acted as prosecutor and judge in this case are not correct. This Hon'ble Court may be pleased to read both the enquiry files i.e. 10-11-1983 and 11-11-1983 as part parcel of this counter. Without prejudice to the rights of this respondent it is respectfully submitted that in view of the allegation that the management has not conducted the enquiries as per the principles of natural justice, this Hon'ble Court may be pleased to decide the validity of the domestic enquiries as preliminary issue before going into the merits

of the case. In case the Hon'ble Court comes to the conclusion that the enquiries were not conducted as per principles of natural justice, this Hon'ble Court may be pleased to permit the management to prove the charges in this Hon'ble Court. With reference to ground (iv) the allegation that the Superintendent of Mines is not competent to issue the charge sheet nor to conduct enquiry and is not competent to issue any disciplinary action and hence the entire enquiry is done by the incompetent authority and as such, the enquiry is void ab initio is not correct and the petitioner is put to strict proof of the same. With regard to maintainability this Hon'ble Court may be pleased to decide this also as a preliminary issue. The allegation even on the face of it the charges cannot be proved is not correct and the petitioner is put to strict proof of the same. With reference to grounds (v), (vi), (vii), (ix) and (x) the allegation that Enquiry Officer's findings are running counter and management has not applied its mind is not correct. The records clearly indicates the workman in dispute is guilty of the charges. The allegation that past record was not looked into and superficial mention is there in the dismissal order is not correct and the petitioner is put to strict proof of the same. The allegation that the dismissal order passed is retrospective and which is illegal and contrary to law is not correct and the petitioner is put to strict proof of the same and the petitioner is also put to strict proof with regard to ground-I that there are various irregularities to vitiate the dismissal order as illegal. It may be noticed the Executive Director is competent to pass the orders and the said Officer failed to exercise the power vested in it under the Standing Orders is not correct. The further allegation that the punishment of dismissal is highly excessive, grossly disproportionate to the gravity of the misconduct is not correct and the petitioner is put to strict proof of the same. With reference to para-9 it may be noticed the termination is not illegal one, the dismissal order is passed after due enquiry according to law. Because of the illegal actions committed by the workman management was constrained to take disciplinary action. There is no illegal termination at all and the petitioner is put to strict proof of that the workman remained unemployed in spite of his best efforts. It may be noticed the petitioner has not made out any case. There are no merits in the petitioner's case. The order passed by the management is legal and binding on the employee. In view of the above mentioned facts it is respectfully submitted the petitioner is not entitled for reinstatement or full back wages or other attendant benefits as prayed for. This Hon'ble Court may be pleased to dismiss the claim petition with exemplary costs and confirm the order passed by the management.

5. The matter stands posted for enquiry. Both the parties filed joint memo compromising the matter among themselves. The contents of the said compromise memo were read over and explained to both the parties and they admitted the same as true and correct. The compromise was recorded, in view of keeping peace and harmony in the industry and to keep good relationship between the workman and the management.

6. In the result, the award is passed in terms of settlement entered into between the parties as per the joint compromise memo filed by both the parties. The said compromise memo is appended to this Award. There will be no order as to costs.

Dictated to the Steno-typist, transcribed by him, corrected by me and given under my hand and the seal of this Tribunal, this the 14th day of February, 1992.

G. KRISHNA RAO, Industrial Tribunal

Appendix of evidence

NIL

BEFORE THE HONOURABLE INDUSTRIAL TRIBUNAL
(CENTRAL) AT HYDERABAD

LD No. 31 of 1989

BETWEEN

The workman of Singareni Collieries Company Limited
Represented by Singareni Collieries Clerical Association, Kalyani Khani-504231, Adilabad District.
A.P.
...Petitioner

AND

New Delhi, the 11th March, 1992

The Singareni Collieries Company Limited, Mandamari
Area, Adilabad Dist., A.P. Respondent

COMPROMISE MEMO FILED BY BOTH THE PARTIES

1. It is respectfully submitted that the workman in dispute and petitioners Union, and also the Respondent Company herein entered into a Memorandum of Settlement under Section 18(1) of I.D. Act, 1947, out of Court regarding the subject matter of I.D. No. 31/89. It is submitted that the General Secretary, Singareni Collieries Clerical Association (SICCA), on behalf of the petitioner, made a representation dated 17-6-91 for reinstatement of the petitioner on humanitarian grounds. As a result, the Respondent Company and Singareni Collieries Clerical Association (SICCA) discussed the issue mutually and reached an amicable settlement.

2. The respondent Company agreed to reinstate the petitioner as Clerk Grade-II with effect from 1-8-1991 in the grade of Rs. 1158-48-1542-58-2006, on a commencing basic pay of Rs. 1158 per month, subject to being found medically fit.

3. The petitioner herein expressly agreed that he will not have any claim whatsoever with regard to previous service nor is he going to claim any back wages whatsoever which relates to the subject matter of I.D. Neither the Petitioner Union (SICCA) nor the petitioner will raise any dispute with regard to backwages or any attendant benefits. As such, the petitioner has been issued office order No. P. 10/4962/IR/1629, dated 22-07-1991 appointing him as Clerk Grade-II with effect from 01-08-1991 and to report to Chief G.M., BPA(P) for medical examination, work and placement and the petitioner reported for duty at Belampalli (Project).

4. In view of the above, this Hon'ble Court may be pleased to pass the Award in terms of compromise. A copy of Memo of Settlement dated 19-07-1991 arrived at under Section 18(1) of I.D. Act with Petitioner's Union (SICCA) and petitioner and office order issued to the petitioner are marked as exhibits.

For Management (S.C. Co. Ltd.)
(S. S. RAMACHANDRA RAO),
Personnel Manager

Sd/- Illegible For workman (Singareni
Counsel for Petitioner, Collieries Clerical Association)
Sd/-
(B. JANAK PRASAD),
General Secretary,
SICCA
Sd/-
(K. MOHAN RAO),
Petitioner,
Sd/- Illegible
Counsel for Respondent

नई दिल्ली, 11 मार्च, 1992

का.आ. 993 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बेगुनिया कोलियरी ऑफ मैन्स भारत कोकिंग कोल लि. के प्रबन्धन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, ग्रामनसोल के पंचपट की प्रकाशित करती है, जो केन्द्रीय सरकार को 9-3-92 को प्राप्त हुआ था।

[संख्या एन-22012/127/88 डी-4 (बी)]

राजालाल, डेस्क अधिकारी

S.O. 993.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Asansol as shown in the Annexure in the industrial dispute between the employers in relation to the management of Begunia Colliery of M/s. Bharat Coking Coal Ltd. of their workmen, which was received by the Central Government on 9-3-1992.

[No. L-22012/127/88-D.IV (B)]

RAJA LAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL,
TRIBUNAL ASANSOL

Reference No. 31/90

PRESENT :

Shri N. K. Saha, Presiding Officer

PARTIES :

Employers in relation to the Management of Begunia
Colliery of M/s. Bharat Coking Coal Ltd.

AND

Their Workmen.

APPEARANCES :

For the Employer—Shri B. Joshi, Advocate.

For the Workmen—Shri D. Mukherjee and Shri C. D.
Dwevedi, Advocates.

INDUSTRY : Coal

STATE : West Bengal

Dated, the 27th February, 1992

AWARD

The Government of India, in the Ministry of Labour in exercise of the powers conferred on them by clause (d) of sub-section (1) and sub-section (2-A) of Section 10 of the Industrial Disputes Act, 1947, has referred the following dispute to this Tribunal for adjudication vide Ministry's Order No. L 22012(127)/88-D.IV (B)/IR (C-II) dated the 17th July, 1990.

SCHEDULE

"Whether the management of Begunia Project of M/s. Bharat Coking Coal Ltd., P.O. Barakar, Dist. Burdwan, was justified in denying re-employment to S/Shri Kanhaiya Bind and 114 others (Annexure-D) retrenched workmen? If not, to what relief the concerned workmen are entitled and from what date?"

2. The case of the workmen in brief is that all the 115 workmen of this case were permanent employees of Begunia Colliery owned by Oriental Coal Co. (P) Ltd., before nationalisation. The present workmen were retrenched from service in the year 1964 by the erstwhile employer without following the mandatory provisions of Section 25-FF of the Industrial Disputes Act, 1947. The authority illegally and arbitrarily locked out the Colliery by not working in the mine.

The Begunia Colliery was nationalised along with other Coking Coal Mines and the Colliery started functioning from the year 1974. Immediately after that the present workmen approached the management of Bharat Coking Co. Ltd., for their re-employment. The management assured favourable decision in their favour and advised to wait. But ultimately the present workmen were not re-employed though the management appointed good number of new employees in the Colliery and some of the retrenched employees.

The workmen spoused the dispute through their representatives. The attempts of conciliation failed. The matter was sent to the Ministry of Labour, Government of India and ultimately the Ministry of Labour has referred the dispute to this Tribunal for adjudication.

3. The Management has filed written statement-cum-rejoinder contending inter-alia that the Begunia Colliery was owned and possessed by M/s. Oriental Coal Co. (P) Ltd. It has closed down from 1-7-1964 and the services of all the employees on the roll were terminated w.e.f. 1-7-1964. They were paid all the retrenchment benefits u/s 25-FFF of the Industrial Disputes Act. Thus none of the employees of Begunia Colliery continued on the roll of the Colliery after 1-7-1964. The concerned persons posing themselves as retrenched employees of Begunia Colliery are demanding for their re-employment. There is no relationship of employer and employee between the workmen and the present management.

4. The present dispute has not been sponsored by any Union or by substantial number of workmen on the roll of the Colliery. So the present dispute is not an industrial dispute and it is also not covered by Section 2-A of the Industrial Disputes Act to make individual dispute into an industrial dispute.

5. The Begunia Colliery was a coking coal mine. Under the provisions of Coking Coal Mines Nationalisation Act, 1972 the Begunia Colliery and the adjoining Coal bearing area came under the charge of Bharat Coking Coal Ltd., as owner of the property. The new management designed a project named as Begunia Project for mining coal from the virgin coal seams lying within the adjacent area of the closed Begunia Colliery by utilising the existing old pits of Begunia Colliery for the purpose of ingress and egress of men and materials to and from the virgin area. The old pits of Begunia Colliery became the entry and exist points of Begunia Project. That Begunia Project was opened on 18-9-1974 and started production of Coal w.e.f. May '81. Competent and experienced persons from different corners were transferred to Begunia Project. The management gave preference to the local people and ex-employees of Collieries at the time of fresh recruitment on the basis of individual merit and physical fitness. On that scheme some of the retrenched workmen of the local area not employment. The present workmen have no legal right to get any re-employment as claimed by them.

6. During the hearing of the case the following law cases have been cited by the parties :

Cases cited by the Union :

- (1) SCLJ (Vol. 15) page 27
- (2) 1977 Lab. I.C. page 1981
- (3) AIR 1973 S.C. page 1227
- (4) AIR 1961 S.C. page 1425
- (5) AIR 1960 S.C. page 655
- (6) AIR 1965 S.C. page 171
- (7) AIR 1975 S.C. page 164
- (8) AIR 1957 S.C. page 540
- (9) AIR 1963 S.C. page 57
- (10) AIR 1963 S.C. page 1436
- (11) 1969 L.L.J. (I) S.C. 507
- (12) 1985 S.C. Cases page 975
- (13) AIR 1977 S.C. page 552
- (14) 1960 S.C. Cases page 655
- (15) 1961 L.L.J. (II) page 110
- (16) 1963 L.L.J. (I) page 770

Cases cited by the management :

- (1) 1978 Lab. I.C. page 709
- (2) 1975 Lab. I.C. page 358
- (3) 1968 Lab. I.C. page 526
- (4) Zetox Copy Judgement of Civil Writ Jurisdiction of Hon'ble Patna High Court.

7. At the very outset it has been alleged from the side of the management that the present dispute has not been properly spoused. Admittedly the present dispute has not been spoused by any union. The management has taken specific plea in para 3 of their written statement on this point which reads as follows :

"That, the concerned persons posed themselves as retrenched employees of Begunia Project and have demanded for their employment. No Employer-Employee relationship existed between the management and any one of the concerned workmen at any point of time. They claimed to have been retrenched in 1964 by the private owners of Begunia Colliery and are demanding re-employment from the present management under the provisions of Section 25-F of the I. D. Act, 1947. It is submitted that it is a case of individual dispute as the same has not been sponsored by any union or by substantial number of workmen on roll of the Colliery. The demand for employment is not covered within the provisions of Section 2-A of the I. D. Act, 1947 to make individual dispute into an industrial dispute. It is submitted that no industrial dispute will arise if ten thousand persons will demand for their employment jointly in a coal mine."

We find that the present Reference has been made for 115 workmen. The dispute was raised by 5 of the workmen on behalf of all the workmen. By pointing out the same the learned Advocate for the management has urged before me that it is not an industrial dispute. So the Reference must fail. On this point the learned Advocate for the workmen has taken me through Section 2-A of the I. D. Act which reads as follows :

"2-A. Dismissal, etc. of an individual workman to be deemed to be an industrial dispute. Where any employer discharges, dismisses, retrenches or otherwise terminate the services of an individual workman, any dispute or difference between that workman and his employer connected with, or arising out of such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute notwithstanding that no other workman nor any union of workman is a party to the dispute."

I find that the provisions of Section 2-A are very wide and it is not exhaustive. I find that in the present case the poor workmen represented their case for re-employment through some of their workmen and considering the nature of the dispute it must be held that all the workmen have personally raised this dispute through some of them and it is covered by Section 2-A of the Industrial Disputes Act, 1947. So I find that the present dispute has been properly raised and the Reference is maintainable.

8. It is admitted that the Begunia Colliery was owned and possessed by Oriental Coal Co. (P) Ltd., before nationalisation and it was closed in the year 1964 and all the employees on the roll of that Colliery were retrenched w.e.f. 1-7-1964. The present workmen have come with the case that they were employees of the said Begunia Colliery and they were so retrenched. The management does not admit that the present workmen were employees of Begunia Colliery. On this point the workmen have examined Sri B. Gope as WW-1. He has stated that all the workmen of this case including himself were the employees of Begunia Colliery and they were retrenched in June, 1964. He has stated that their names were recorded in the 'B' Form Register of the erstwhile employer and they were all members of Coal Mines Provident Fund. Considering all the documents filed from the side of the workmen and all the facts and circumstances, I find nothing to disbelieve this unchallenged statement of WW-1 made on oath. So I find that all the present 115 workmen were the employees of Begunia Colliery owned and possessed by Oriental Coal (P) Ltd. and they were retrenched from service w.e.f. 1-7-1964.

The workmen have come with the story that the old Begunia Colliery was opened after nationalisation, but they were not taken in service. On the other hand the manage-

men has come with the story as stated in paras 7 and 8 of their written statement which read as follows :

"7. That, the management designed a project for mining coal from Coal Seams lying within the adjacent areas of closed Begunia Colliery by utilising the existing old pits of Begunia Colliery for the purpose of ingress and outgress of men and material through those pits and for the purpose of serving as outlets for the ventilation purposes. The Project was named as Begunia Project as the entry points are situated at Begunia Colliery.

8. That, Begunia Project was opened on 18-9-74 and started production of coal with effect from May '81. Competent persons and experienced workers were transferred from different Collieries of the management. The surplus workmen were accommodated in this Project instead of retrenching them."

According to the management the old pits have been in use only as entry and exist points of Begunia Project, but no coal is raised from the old Begunia Colliery for commercial purpose. On this point the learned Lawyer for the workmen has spared no pains to take me through the statement made by MW-2 Sri S. K. Chattaraj. He has admitted in cross-exam. that under the Mines Act opening of shaft and driving of stone drifts come under the definition of Mine. He has admitted that "we have been raising coal from the area of old abandoned Begunia Colliery (surface area)". The Begunia Project includes the surface area of old Begunia abandoned Colliery as well as Chanch Colliery area. Then the learned Lawyer for the workmen has taken me through the revised Feasibility Report of Begunia Project (Ext. M-6). Considering the statement made by MW-2 and the Feasibility Report (Ext. M-6) I find that the old Begunia Colliery has been re-opened in Begunia Project and the management has been raising coal from the old Begunia Colliery which was closed by the erstwhile management.

9. At the outset it was not accepted by the present management that some new employees were taken in the Begunia Project. But it is now admitted that some new employees were taken in the Project under different schemes as stated in Exts. M-8, M-9 and M-10. In para 11 of their written statement the management has admitted that some retrenched workmen of the local area got employment. It is the case of the workmen that some retrenched employees of the Begunia Colliery were also taken in service, but they were not taken. So considering the materials on record and the facts and circumstances, I find that some of the retrenched employees of old Begunia Colliery owned and possessed by Oriental Coal Co. (P) Ltd., were taken in service by the present management of Bharat Coking Coal Ltd., when it re-opened the old Begunia Colliery.

10. Now comes the question whether the present workmen have right to claim re-employment. We find that Begunia Colliery was a coking coal mine and it was nationalised by the Coking Coal Mines Nationalisation Act, 1972. The management has taken specific plea in paras 9 and 10 of their written statement that the present workmen have no legal right to claim re-employment which read as follows :

"9. That, it is submitted that the right of ex-employees of Private Owners to continue in the employment of M/s. Bharat Coking Coal Ltd., has to be determined under the provisions of Nationalisation Acts. As per the unrepeatable provisions of Section 17 of Coking Coal Mines (Nationalisation) Act, 1971 and Section 14 of the Coal Mines (Nationalisation) Act, 1973, a workman on the roll of the Colliery on the appointed day was entitled to continue in the employment after nationalisation of the Colliery. The workmen whose services were terminated on account of dismissal, discharge or retrenchment were not on the roll of the Colliery on the appointed day. The Nationalisation Acts have over-riding effect over all other laws including Industrial Disputes Act, 1947. Therefore, assuming, but not admitting that the concerned persons were genuine workmen of Begunia Colliery prior to 1964 and they were retrenched by M/s. Oriental Coal Company Ltd., with effect from 1-7-64, they

could not be on the roll of the Colliery immediately before the appointed day and as such their relationship with the Private Owners stood terminated with effect from the appointed day. The claim of retrenched workmen of a Colliery under Section 25-H of the Industrial Disputes Act, 1947 stood terminated with effect from the appointed day as per the provisions of law.

10. That, after coming into force of the Coal Mines Nationalisation Laws (Amendment) Act, 1986, with effect from 15-12-86, no workman of ex-employer of a coal mine can claim employment under the present management. In the case of the management of Rankanali Colliery vs. their workmen, represented through R.C.M.S., the Hon'ble High Court of Patna (R), quashed the Award of Industrial Tribunal at Dhanbad, holding that after 15-12-86, no workman of erstwhile private employers can claim employment under the management of M/s. B.C.C. Ltd., on any count. The above judgement was passed in C.M.J.C. No. 747 of 1988 (R). It is submitted that the claim of the concerned persons for their employment under M/s. B.C.C. Ltd., has no legal basis, whatsoever."

The learned Advocate for the management has taken me through the Coal Mines Nationalisation Laws (Amendment) Act, 1986. Section (1) of the said Act reads as follows :

"1. (1) This Act may be called the Coal Mines Nationalisation Laws (Amendment) Act, 1986.

(2) Save as otherwise expressly provided the amendments to the Coking Coal Mines (Nationalisation) Act, 1972 shall be deemed to have come into force on the 1st day of May, 1972 and the amendments to the Coal Mines (Nationalisation) Act, 1973 shall be deemed to have come into force on the 1st day of May, 1973, and the remaining provisions of this Act shall be deemed to have come into force on the 7th day of October, 1986."

and then he has taken me through the old Section 17 of the Coking Coal Mines Nationalisation Act which reads as follows :

"17. Employment of certain employees to continue—

(1) Every person who is a workman within the meaning of the Industrial Disputes Act, 1947, and has been, immediately before the appointed day, in the employment of a Coking Coal Mine or Coke oven plant, shall become on and from the appointed day, an employee of the Central Government, or, as the case may be, of the Government company in which the right, title and interest of such mine or plant have vested under this Act, and shall hold office service in the Coking Coal Mine or Coke oven plant, as the case may be, on the same terms and conditions and with the same rights to pension, gratuity and other matters as would have been admissible to him if the rights in relation to such Coking Coal Mine or Coke oven plant had not been transferred to and vested in, the Central Government or Government company, as the case may be, and continue to do so unless and until his employment in such Coking Coal Mine or Coke oven plant is duly terminated or until his remuneration, terms and conditions of employment are duly altered, by the Central Government or the Government Company.

(2) The Central Government or the Government company in which the right, title and interest in relation to a coking coal mine or coke oven plant have vested, may employ, on mutually acceptable terms and conditions, any person who is not a workman within the meaning of the Industrial Disputes Act, 1947, and who has been immediately before the appointed day, in the employment of a Coking Coal Mine or Coke oven plant, and on such employment the said person shall become an employee of the Central Government or the Government company, as the case may be.

(3) Save as otherwise provided in sub-sections (1) and (2), the services of every person employed by the

owner or occupier of a Coking Coal Mine or Coke oven plant before the appointed day shall stand terminated on and from the specified date.

and then he has taken me through new substituted Section 17 which stands after amendment reads as follows :

"17 Notwithstanding anything contained in the Industrial Disputes Act, 1947 or in any other law for the time being in force, the services of any officer or other employee employed in a Coking Coal Mine or Coke oven plant shall be liable to be transferred to any other Coking Coal Mine or Coke oven plant and such transfer shall not entitle such officer or other employee to any compensation under this Act or any other law for the time being in force and no such claim shall be entertained by any Court, Tribunal or other authority."

By pointing out the same he has urged before me that under the old law the workman had a protection. But the protection has been withdrawn by the Amended Act. On this point he has also placed before me the zerox copy of the judgement passed by the Hon'ble Patna High Court in Civil Writ Jurisdiction Case No. 747 wherein it has been held that the substitution of a new section is to be treated as amendment which has been vehemently challenged by the learned Lawyer for the workmen. The learned Lawyer for the workmen has cited series of cases to show that amendment and substitution are not same. By placing those cases he has urged before me that the judgement of the Civil Writ Jurisdiction Case No. 747 of 1988 (R) as submitted by the other side is a bad piece of law. So he has urged before me that the workmen still enjoy the protection of Section 17 of the old Nationalisation Act. But considering all the facts and circumstances and the law on the subject after amendment read with the judgement of the Hon'ble Patna High Court as submitted by the learned Advocate of the management, I am unable to look eye to eye with the learned Lawyer for the workmen. I find that the workmen of the present case do not enjoy the protection under the old law as the same has been amended with retrospective effect and they cannot claim any re-employment under the present management as of right.

11. Be that as it may, there is a moral aspect of the case. The Coal Industry was nationalised with the aim to protect the workmen from injustice and exploitation by the private owners. For that the public sector like the present one was created. It was expected that the public sectors would not make any discrimination in any matter. The Hon'ble High Courts and Supreme Court in several cases have condemned discrimination. In the instant case the learned Advocate for the workmen has urged that some of the retrenched workmen of Begunia Colliery were given employment but the claim of the present workmen was ignored. He has urged before me that it was the duty of the management to prefer the retrenched employees at the time of fresh recruitment. We find that good number of fresh employees were recruited in Begunia Project. But the claim of the present workmen was all along ignored. Considering the facts and circumstances of the present case I find that it is a clear case of discrimination. So in a case like the present one it was the duty of the management to re-employ the present workmen though they have no legal obligation to do so as it is a public sector.

The learned Advocate for the management has urged before me that if at this stage the Tribunal gives any direction to appoint the present workmen then there will be serious complicity as some of the workmen have perhaps already crossed the age of 60 years and most of them must be in between 45—55 years of age. I am conscious about this position. But surely the management shall not appoint the persons who have already crossed the age of 60 years and those who are not physically fit to work for a particular post.

12. It is a Court of social justice. It is the duty of this Court to see that there may not be any discrimination in treating the claim of the workmen. So I find that the management was not justified in denying the re-employment

to all the 115 workmen as mentioned in the schedule of Reference. The management of Begunia Project under Bharat Coking Coal Limited is directed to consider the case of all the concerned 115 workmen for their re-employment against existing and future vacancy in Begunia Colliery, Begunia Project or in any other adjoining Colliery and for the said purpose—

- (i) all the 115 workmen of this case shall immediately submit fresh individual separate application for appointment before the management with complete bio-data giving their name, age and the previous post held by them and the management shall acknowledge the same by granting receipt.
- (ii) The management shall accept the age if there be any statutory certificate of any workman. If there be no statutory certificate then the age shall be determined by a Medical Board.
- (iii) No workman shall be eligible for appointment if he be aged above sixty years at the time of appointment.
- (iv) No workman shall be eligible for appointment if he be not physically fit for the particular post.
- (v) The management shall give appointment after considering the suitability of the workmen for the vacant post subject to physical fitness on examination by a proper Medical Board.

This is my award.

N. K. SAHA, Presiding Officer

Part of the Award

ANNEXURE-D

List of workmen of Begunia Colliery who were retrenched in 1964

Sl. No.	Name
1.	Shri Kanhiyalal Bind
2.	Shri Baleshwar Gope
3.	Shri Md. Irdis
4.	Shri Sarju Tiwari
5.	Shri Nanku Bhuiya
6.	Shri Ganga Pandey
7.	Shri Bhawani Senar
8.	Shri Rakho Hati
9.	Shri Sudhakar Das
10.	Shri Babulal Paswan
11.	Shri Ramawtar Gareri
12.	Shri Budhu Xed
13.	Shri Karmu Gope
14.	Shri Kurjal Kumhar
15.	Shri Bahadur Jaswara
16.	Shri Haripado Bouri
17.	Shri Chhatai Madak
18.	Shri Badal Das
19.	Shri Kirat Bagdi
20.	Shri Rameshwar Ram
21.	Shri Rabi Bouri
22.	Shri Puna Bouri
23.	Shri Bijai Bouri
24.	Shri Khado Bouri
25.	Shri Phulchand
26.	Shri Dukha Bouri
27.	Shri Kisohori Lal

- | | |
|-----------------------------------|---------------------------|
| 28. Shri Hiralal Bind | 84. Shri Gauri Bhuiya |
| 29. Shri Kista Bouri | 85. Smt. Sukari Debi |
| 30. Shri Babulal Gope | 86. Smt. Panwa Debi |
| 31. Shri Prabhakar Bouri | 87. Smt. Dulari Debi |
| 32. Shri Sitaram Koiri | 88. Smt. Dahwa Debi |
| 33. Shri Mahadeo Jaswara | 89. Smt. Sudamia Debi |
| 34. Shri Lakhu Bouri | 90. Smt. Badamia Debi |
| 35. Shri Chamru Mia | 91. Smt. Chamdua Debi |
| 36. Shri Raghu Harijan | 92. Smt. Manaki Debi |
| 37. Shri Phusu Melhara | 93. Smt. Munawa Debi |
| 38. Shri Tumnath Bind | 94. Smt. Koshal Debi |
| 39. Shri Kodul Gope | 95. Smt. Gangia Debi |
| 40. Shri Dhano Gope | 96. Smt. Sohagi Debi |
| 41. Shri Bhukhan Gope | 97. Smt. Sugawa Debi |
| 42. Shri Jhaman Gope | 98. Smt. Keshiya Debi |
| 43. Shri Kojai Shukul | 99. Smt. Munshi Bhuiya |
| 44. Shri Shomlal Chowdhury | 100. Smt. Bideshwari Debi |
| 45. Shri Ahmad Hussain | 101. Smt. Kabutri Debi |
| 46. Shri Prabhu Rai | 102. Smt. Chano Debi |
| 47. Shri Thakur Prasad | 103. Smt. Jirawa Debi |
| 48. Shri Ramnayak | 104. Smt. Runo Debi |
| 49. Shri Bansi Jaswara | 105. Smt. Balram Bouri |
| 50. Shri Kadari | 106. Smt. Sato Bouri |
| 51. Shri Bhola Harijan | 107. Smt. Kori Bouri |
| 52. Shri Sudarsan Dasadh | 108. Smt. Bagala Bouri |
| 53. Shri Balchand Rajbhar | 109. Smt. Durga Bouri |
| 54. Shri Khokha Paswan | 110. Smt. Harakhnath Bind |
| 55. Shri Mahadeo Paswan | 111. Smt. Belashi Debi |
| 56. Shri Ramdhani Thakur | 112. Smt. Sagar Thakur |
| 57. Shri Saligram Pandit | 113. Smt. Jhabra |
| 58. Shri Basudeo Gope | 114. Smt. Chandri Thakur |
| 59. Shri Chopan Bhuiya | 115. Smt. Balia Thakur. |
| 60. Shri Kailash Bhuiya | |
| 61. Shri Kandi Bhuiya | |
| 62. Shri Janaki Bhuiya | |
| 63. Shri Ramu Bhuiya | |
| 64. Shri Rameswar Bhuiya | |
| 65. Shri Sanichar Bhuiya | |
| 66. Shri Paro Bhuiya | |
| 67. Shri Nasir Bhuiya | |
| 68. Shri Paulwa Bhuiya | |
| 69. Shri Jagshwar Bhuiya | |
| 70. Shri Logi Bhuiya | |
| 71. Shri Kishun Bhuiya | |
| 72. Shri Chhopa Kishun Bhuiya | |
| 73. Shri Baso Bhuiya | |
| 74. Shri Jagshar Bhuiya | |
| 75. Shri Ram Swaroop Bhuiya | |
| 76. Shri Chota Ram Swaroop Bhuiya | |
| 77. Shri Garo Das | |
| 78. Shri Nanku Bhuiya No. 2 | |
| 79. Shri Jago Bhuiya | |
| 80. Shri Chhoten Bhuiya No. 2 | |
| 81. Shri Kesho Bhuiya | |
| 82. Shri Mahabir Bhuiya | |
| 83. Shri Chhano Bhuiya | |

Sd/- M. J. MIRZA

Asstt. Labour Commissioner (C)

Asansol-I

नई दिल्ली, 12 मार्च, 1992

का.ग्रा. 994 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कंटरास ज्यूजूरी कोलियरी आफ मैसर्स भारत कोकिंग कोल लि., के प्रबन्धन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, धनबाद (सं-2) के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 9-3-92 को प्राप्त हुआ था।

[संख्या एन-24012/62/86-डी-4 (बी)]

राजा लाल, डेस्क अधिकारी

New Delhi, the 12th March, 1992

S.O. 994.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Dhanbad (No. 2) as shown in the Annexure in the industrial dispute between the employers in

relation to the management of Katras Choitudih Colliery of M/s. Bharat Coking Coal Ltd. of their workmen, which was received by the Central Government on 9-3-1992.

[No. L-24012/62/86-D.IV (B)]

RAJA LAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT :

Shri B. Ram, Presiding Officer,
Reference No. 67 of 1987

In the matter of an industrial dispute under Section 10(1)(d) of the I. D. Act, 1947

PARTIES :

Employers in relation to the management of Katras Choitudih Colliery of M/s. Bharat Coking Coal Limited, and their workmen.

APPEARANCES :

On behalf of the workmen—Shri D. Mukherjee, Secretary, Bihar Colliery Kamgar Union.

On behalf of the employers—Shri B. Joshi, Advocate.

STATE : Bihar INDUSTRY : Coal
Dhanbad, the 21st February, 1992

AWARD

The Government of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I. D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-24012/62/86-D.IV (B), dated, the 17th January, 1987.

SCHEDULE

"Whether the demand of Shri H. S. Biswas, Asstt. Cap Lamp Incharge Gr. II of Katras Choitudih Colliery of M/s. B.C.C. Ltd., for promotion/regularisation as Cap Lamp Incharge Gr. I w.e.f. 2-12-83 and payment of Cat. V wages from 1980 is justified? If so, to what relief the workman is entitled?"

2. Shri H. S. Biswas, the concerned workman of Katras Choitudih Colliery has demanded his regularisation in Gr. I as Cap Lamp Incharge with effect from 2-12-83 and also Cat V wages with effect from 1980. He has filed W.S. stating his claims. According to him in the year 1980 the management had promoted one Shri K. K. Dutta as Cat. V Cap Lamp Fitter superseding the concerned workman although Shri Dutta was junior to him. The management issued office order on 2-12-83 directing the concerned workman to work as Cap Lamp Incharge Gr-I and since then he has been continuously working as Cap Lamp Incharge Gr-I to the full satisfaction of the management but in spite of the aforesaid facts the management has been paying only Gr-II wages.

3. The concerned workman represented his case before the management several times for equal pay for equal work but without any effect. The union ultimately had to raise industrial dispute before the ALC (C), Dhanbad which ended in failure and hence this reference. It has been prayed that the concerned workman should be regularised as Gr-I Cap Lamp Incharge, with effect from 2-12-83 and Cat. V wages from 1980 with all arrears of wages and attendance benefits.

4. The management has refused every claim of the concerned workman and it was stated that the concerned workman as Asstt. Cap Lamp Incharge has been rightly placed in Gr. II. It was contended further that the concerned workman was working as Cap Lamp Incharge in Cat. IV prior to his promotion to the post of Asstt. Cap Lamp Incharge by order dated 3-3-83 on the recommendation of the D.P.C. and therefore his demand for Cat. V from 1980 is without

any merit. It is wrong to say that Shri Dutta was junior to Shri Biswas. The matter was examined and it was found that Shri Dutta had joined service in the Colliery in 1959 as Cap Lamp Helper whereas the concerned workman joined his service in 1963 as Electrical Helper. It was further submitted that the concerned workman was promoted to the post of Asstt. Cap Lamp Room Incharge on 3-3-83 and as per the Cadre Scheme there was no scope for promotion. Lastly the management further submitted that Shri Biswas has not been promoted to the post of Cap Lamp Room Incharge in Gr-I and was never deputed to work as such at any time. He is getting the pay for the duties performed by him as fixed under NCWA-III. In the circumstances it has been submitted that the Award be passed holding that the concerned workman is entitled to any relief.

5. The only point for consideration is whether the concerned workman is entitled for his regularisation in Gr-I as Cap Lamp Incharge with effect from 2-12-83 and also for Cat. V wages with effect from 1980.

6. It was alleged that the concerned workman with one Shri K. K. Dutta junior to him was promoted in 1980 as Cap Lamp Fitter in Gr. V and his case was ignored by D.P.C. In the light of such assertion first of all we will examine whether the concerned workman was senior to Shri K. K. Dutta. In cross-examination Shri H. S. Biswas, the concerned workman stated that he had not raised any dispute on promotion of Shri Dutta as Cap Lamp Fitter in 1980. He claims to have joined as Electrical Helper in 1958 but he has denied his knowledge that Shri K. K. Dutta had joined as Cap Lamp Fitter in 1959. The photo copy of Form B Register is Ext. M-3. It will simply show that Shri Biswas has joined his duty in 1963 as Electrical Helper. The name of Shri K. K. Dutta appears against Sl. No. 175 wherein he has been shown as Cap Lamp Fitter and his date of commencement of employment has been shown as 1959. At least this document shows that Shri Biswas was junior to Shri Dutta. Again the concerned workman stated in his cross-examination that his date of joining has been wrongly recorded in Form B Register. Admittedly he had not raised any dispute that his date of birth has been wrongly recorded. He simply stated to have written to the management in this regard but there is nothing on the record to support the contention of the concerned workman. It may be noted that the name of Shri Biswas appears against Sl. No. 127 and that of Shri K. K. Dutta against Sl. No. 175 and both of them had put their signature in Col. 9 of the Form B Register. This means the concerned workman was quite aware from before that his date of employment has been recorded as 1963. In the circumstances there could have been hardly any reason for the concerned workman to keep mum over the matter. I hold therefore that the concerned workman was junior to Shri Dutta. It has been suggested to MW-I that the photo copy of Form B Register was not prepared from the original but this fact has been denied by the witness. It has again been suggested that in original Form B Register the date of employment of the concerned workman has been shown as 1958. However this suggestion has been denied. Anyway in view of the document (Ext. M-3) I find no substance in the contention raised by the learned counsel for the workman.

7. It has been alleged that the concerned workman has been discharging his duties as Cap Lamp Incharge Gr. I Since December 1983 continuously to the full satisfaction of the management but he is being paid wages of Gr. II. Reference was made to Ext. W-1 which is a photo copy of the office order dated 2-12-83 whereby the concerned workman and others were directed to take charge as Cap Lamp Incharge. Shri Biswas claims that since then he has been working as Cap Lamp Incharge. I have perused the document Ext. W-1 and against the name of Shri H. C. Roy there is an endorsement which runs as follows —

"Will work as general Cap Lamp room incharge looking after all the Cap Lamp Rooms. He will daily monitor the report of position of the Cap Lamp requirement of spares and assist different Lamp Cabin Staff and proper maintenance of Cap Lamp and Safety lamps."

This portion of the office order is crystal clear that Shri Roy was made incharge to look after all the Cap Lamp Rooms. In view of this specific direction I do not think

that the concerned workman and others were given full and free hand to work as Cap Lamp. It can be further inferred that they were not to discharge their duties as Cap Lamp Incharge independently. In this connection reference also may be made to Ext. M-4 whereby the personnel Manager, Katras Area was intimated by Dy. C.M.E. Katras Chaitudih Colliery that in the office order dated 2-12-83 (Ext. W-1) the word "Assistant" is missing due to clerical error and oversight. The letter is dated 14-2-1986.

8. Certainly this letter was written after about 2 years and this definitely sparks utter carelessness and irresponsible behaviour on the part of the management. MW-1 has stated in cross-examination that since after the aforesaid office order Ext. W-1 the concerned workman has been discharging his duty as Cap Lamp Incharge. The learned counsel for the workman in his continued submission pointed out the glaring manipulation occurring in Attendance Register Ext. W-4. In the attendance for the period from 15-6-86 to 21-6-86 the name of the concerned workman appears. Col. 5 of the Register states the class of employment and against the name of Shri H. S. Biswas, Asstt. Cap Lamp Incharge has been noted but apparently it appears that the letter "A" has been subsequently added. Something appears in the Attendance for the period from 22-6-86 to 5-7-86 and so on. Ext. M-6 series are the bonus sheet of the concerned workman. In the bonus sheet for the year 1984 and onward, the concerned workman has been shown as Cap Lamp Incharge. The learned counsel for the workman urged that again letter "A" in the designation is subsequent addition. However, the same argument was advanced by the management as in case of Ext. M-5 series. The learned counsel for the management urged that mistake occurring in the register must have been corrected in the light of the letter dated 14-2-86 (Ext. M-4). The learned counsel may be correct in his assertion but that was not the procedure for correction of the entry already made. There should have been separate order for such correction. The letter (Ext. M-4) is silent about any correction in the Attendance Register. The Attendance Register has been marked Ext. M-5 series.

9. Ext. M-1 is the photo copy of the office order dated 3-3-83 whereby Shri Biswas as Cap Lamp Fitter Cat. IV was promoted as Asstt. Cap Lamp Incharge Gr. II. Asstt. Cap Lamp Incharge after promotion gets the post of Cap Lamp Incharge as it was done in case of Shri B. K. Sen-gupta. As regards promotion it was pointed that the concerned workman was promoted earlier as Asstt. Cap Lamp Incharge than Shri Dutta and reference was made to Ext. M-2 which shows that Shri Dutta was promoted to as Asstt. Cap Lamp Incharge on 27-10-83 whereas Shri Biswas the concerned workman was promoted to this post on 3-3-83 (Ext. M-1). MW-1 has stated that Shri Dutta had joined in 1959 as Cap Lamp Fitter but the concerned workman had joined as Electrical Helper in 1963. Naturally Shri Dutta had better experience in Lamp room section. The learned counsel for the management pointed out that there is a cadre scheme for electrical and mechanical discipline and for promotion to the post of Lamp room incharge three years experience as Asstt. Lamp Room Incharge is necessary. Necessary provision as per Annexure VII of promotional channel of E and M was shown and explained. I think the cadre scheme has got its own importance and nobody can claim any promotion beyond the scope of this scheme. No doubt as per evidence of MW-1 the concerned workman has been working as Cap Lamp Incharge since December, 1983 (Ext. W-1).

10. The learned counsel for the workman seriously canvassed the principles of equal pay for equal work. It was urged that the concerned workman has been discharging the duties of Cap Lamp Incharge and since long time but he has been denied the real wages of Cap Lamp Incharge. I find that the concerned workman has also asserted this fact in his evidence. The learned counsel placed his reliance upon the authority reported in 1985 LIC Page-1223. Their Lordships were pleased to hold as follows :—

"In our opinion it would be a great injustice to continue the appellants on the scales of pay of Draughtsmen even after promotion as Senior Draughtsmen, which is destructive of all incentive and initiative in the service."

In the authority cited above the appellants were getting the pay scale of Draughtsmen even after their promotion as senior Draughtsmen. Here in the present reference the case is quite different. The concerned workman was never promoted to the post of Cap Lamp Incharge. Even according to cadre scheme he had not completed 3 years of experience as Asstt. Cap Lamp Incharge. Similarly in the authority reported in 1987 LLJ Vol I page 536 the case was of male and female stenographers. The question is that both were holding the same post i.e. of Stenographer. Here in the instant case there is no question of holding the same post. The concerned workman was working as Cap Lamp Incharge without any promotion. In other words he was not holding the post of Cap Lamp Incharge. Thus the principle enunciated is crystal clear that mere doing the work carrying higher scale of pay cannot confer entitlement on the employees for higher wages unless he holds that post on due promotion. I have examined all these aspects of the matter and in my opinion the concerned workman is not entitled to any relief as claimed by him. The Award is passed accordingly.

B. RAM, Presiding Officer

नई दिल्ली, 12 मार्च, 1992

का.आ. 995 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार तिलाबोनी कोलियरी आफ मैसर्स ई सी लि. के प्रबन्धन के संबद्ध नियोजकों और उनके कर्मचारियों के बीच अनुबंध में निर्विष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, आसनसोल के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 11-3-92 को प्राप्त हुआ था।

[संख्या एल-22012/218/91-आई आर (सी-II)]

राजा लाल, डेस्क अधिकारी

New Delhi, the 12th March, 1992

S.O. 995.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Asansol as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Tilaboni Colliery of M/s. E.C. Ltd. of their workmen, which was received by the Central Government on the 11-3-92.

[No. L-22012/218/91-IR(C-II)]

RAJA LAL, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL, ASANSOL

Reference No. 5/92

PRESENT :

Shri N. K. Saha,
Presiding Officer

PARTIES :

Employers in relation to the management of Tilaboni Colliery of M/s. E. C. Ltd.

AND

Their Workman.

APPEARANCES :

For the Employers,—Shri P. K. Mitra, Personnel Manager.

For the Workman.—None.

INDUSTRY : Coal.

STATE : West Bengal.

Dated, the 4th March, 1992

AWARD

The Government of India in the Ministry of Labour in exercise of the powers conferred on them by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, has referred the following dispute to this Tribunal for adjudication vide Ministry's Order No. L-22012/218/91-IR(C.II) dated the 9th January, 1992.

SCHEDULE

"Whether the action of the management of Tilaboni Colliery of M/s. E.C. Ltd., P.O. Ukhra, Dist. Burdwan in dismissing Shri Arun Bagti U/G Loader w.c.f. 2-3-90 is justified? If not, to what relief is the concerned workman entitled?"

2. From the record it appears that the union had received the Court's notice on 15-1-92 (as per A/D card) but no steps has so far taken by the union nor any intimation for their absence has been sent. It is therefore presumed that the union is not interested to contest the case as no dispute exists.

3. In the circumstances I have no other alternative but to pass a no-dispute award and accordingly a no-dispute award is passed.

N. K. SAHA, Presiding Officer

नई दिल्ली, 25 मार्च, 1992

का.ग्रा. 996 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, मैसर्स टाटा आयरन एण्ड स्टील कम्पनी लिमिटेड के प्रबन्धतंत्र से संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, (नं.-1) धनबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को प्राप्त हुआ था।

[फा. संख्या एस-20012(138)/89-आई.ग्रा. (कोल-I)]

वी.के. वेंगुगोपालन, डेस्क अधिकारी

New Delhi, the 25th March, 1992

S.O. 996.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 1), Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the management of M/s. Tata Iron & Steel Co. Ltd., and their workmen which was received by the Central Government.

[No. L-20012(138)/89-IR(Coal-I)]

V. K. VENUGOPALAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. I, DHANBAD

In the matter of a reference under section 10(1)(d) of the Industrial Disputes Act, 1947.

Reference No. 187 of 1989

PARTIES :

Employers in relation to the management of M/s. Tata Iron & Steel Co. Ltd.

AND

Their Workmen

PRESENT :

Shri S. K. Mitra,
Presiding Officer

APPEARANCES :

For the Employers.—Shri B. Joshi, Advocate.
For the Workmen.—Shri D. K. Verma, Advocate.
(At the time of final hearing—none).

STATE : Bihar.

INDUSTRY : Coal.

Dated, the 20th February, 1992

AWARD

By Order No. L-20012(138)/89-IR(Coal-I), dated the 29th November, 1989, the Central Government in the Ministry of Labour, has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2-A of section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :—

"Whether the action of the management of West Bokaro Colliery of M/s. Tata Iron & Steel Co. Ltd. in not promoting Shri Sushil Kumar Singh, Dumper Operator to the post of Senior Dumper Operator Gr. I (Cat. A) (RD/CH-60 T) w.c.f. 24-10-86 is justified? If not, to what relief the workman concerned is entitled?"

2. The case of the management of West Bokaro Colliery of M/s. TISCO, as disclosed in the written statement-cum-rejoinder, details apart, is as follows :

The present reference is not maintainable. The sponsoring union, Koyla Shramik Sangathan has not been recognised by the management as it has practically no existence in West Bokaro Colliery or any other Colliery of the management. Dumper operators are time-rated workers employed in Opencast working in Excavation works for removal of overburden and they are fixed in Categories D, C or B in the Excavation cadre, depending upon their individual merits in driving, manoeuvring and controlling different kinds of dumpers of various capacities and in normal running repairing and maintenance jobs on dumpers. The concerned workman is enjoying highest excavation Category-B as Dumper Operator according to the merits he possesses. His demand for promotion in Excavation Category-A meant for Senior Dumper Operators has not yet been accepted as because he has not yet acquired requisite skill and merit of Senior Dumper Operator. Prior to 1986 dumpers having maximum 35 tonnes capacity were used in open cast workings of West Bokaro Colliery. The dumpers were of two types, bottom dumpers and rear dumpers. The management started introducing bottom dumpers with 60 tonnes capacity in the year 1986 and started giving training to the existing BD Operators of Excavation Cat. B. The management also introduced a scheme for payment of Rs. 60 per month as special allowance to those dumper operators who were capable of operating both types of dumpers—Rear dumper and Bottom dumper. In October 1986 a trade test was conducted for selection of senior dumper operators. All 21 dumper operators in Excavation Category 'B' capable of operating both Bottom and Rear Dumper were invited to appear in the interview for appointment to the post of Senior Dumper Operator (Trainee). The training period was for six months. Out of 21 Dumper Operators 11 were selected for promotion as Senior Dumper Operator Category-A. The recognised union raised objection against the procedure of post selection after training and insisted that all dumper operators in Excavation Category-B having 8 years of experience should be imparted training and final selection should be made for promotion to posts of Sr. Dumper Operators. The union also demanded for cancellation of earlier test result. In September, 1987 applications were invited from Dumper Operators in Excavation Category-B having 8 years of experience for consideration of their promotion to the post of Senior Dumper Operators. 36 candidates submitted their applications. It was observed that 11 posts of Senior Dumper Operators were available and in case all the 36 candidates were called for

interview and test, there would be chance of more supersession which might ultimately had an adverse effect on efficiency. Therefore, 20 dumper operators according to seniority including some dumper operators who passed interview and test in October, 1986, were called for interview and test. Anyway, only 16 candidates appeared and 4 persons already selected in the test held in October 1986 refused to appear in the second test. All the 16 candidates who appeared in the interview and tests were adjudged to possess equal merits. Since 11 posts of Sr. Dumper Operators were available, the first 11 candidates were selected for permanent posting as Senior Dumper Operator Category-A and rest five were kept on the panel for subsequent absorption and for engagement against leave/sick vacancies. After their absorptions, they were deemed to have been promoted w.e.f. 11-1-88. Lastly, with creations of more posts of Sr. Dumper Operators, the four left over Dumper Operators who had passed the test in 1986 and refused to appear in 1987 test for 2nd time were promoted with effect from 11-1-88, after observing the performance and on recommendation of the concerned departmental head. Thus all the 20 seniormost dumper operators in Excavation Category-B were promoted to the post of Senior dumper operators. It was observed that S/Shri C. D. Singh and M. Dubey had taken training for operating B. D. having 60 tonnes capacity and were included amongst 36 candidates who applied in September, 1987 for consideration of promotion. They had worked as Senior Dumper Operator during the leave and sick vacancies. With the introduction of more No. of high capacity dumpers, their engagement became more or less regular from January, 1988. Their demand for putting them in Excavation Category-A as Sr. Dumper Operator were accepted and all disputes regarding promotion and regularisation were closed. The concerned workman has been continuing as Dumper Operator. He has completed training in operation and maintenance of 60 tonnes capacity dumpers and is eligible for consideration for promotion as Sr. Dumper Operator. During 1987 he was deputed to operate BD having 60 tonnes capacity under different mining conditions, against gradients, narrow roadways, curves etc. It was observed that he had still to acquire sufficient merit to operate and maintain 60 tonnes B.D. Therefore, he could not be cleared for his regularisation/promotion as Senior Dumper Operator. In the circumstances, the concerned workman is not entitled to be promoted as Senior Dumper Operator in Category-A.

3. The concerned workman, as appearing from the written statement submitted on his behalf by the sponsoring union, Koyla Shramik Sanghatan, briefly stated, is as follows :

The concerned workmen joined West Bokaro Colliery as Motor Vehicle Driver in 1977 and subsequently he was promoted as Dumper Operator in Category-B in 1979. The Open Cast Mine of West Bokaro colliery has two types of dumpers—Bottom-Dumper and Rear-Dumper. A Dumper Operator who has acquired skill to operate both Rear Dumper and Bottom Dumper is paid special allowance of Rs. 60 per month besides his usual allowance. The concerned workman is well experienced in operating Bottom Dumper and Rear Dumper and is being given Rs. 60 as special allowance from 1985 as per the Scheme of special allowance. In 1986 C. H. 60-T was introduced in Open Cast Mine and pending decision with regard to the modality of promotion, Bottom Dumper Operators were invited to take training by way of appearing in a test for the post of Senior Dumper Operator in Excavation Category-I. The Test for the post of Senior Dumper Operator was held on 18-10-86 and the concerned workman appeared and passed in the test of operating Bottom Dumper of higher capacity, but unfortunately at the instance of some scheming persons the management did not give him promotion to the post of Senior Dumper Operator. After the test the management arbitrarily called for fresh test/interview of 20 persons from Rear Dumper and Bottom Dumpers Operators including those who had passed the test. The concerned workman was not called for fresh test/interview. The fresh test/interview was held sometime in the month of September/October, 1987. Out of 20 Dumper Operators called for interview only 16 appeared for test. 11 Dumper Operators were given promotion to the post of Senior Dumper Operator from 11-1-88 and 5 were kept in the panel. Even these 5 Dumper Operators were given

promotion with effect from 1-1-88. The management has given promotion to some Dumper Operators as Senior Dumper Operators arbitrarily and denied the same benefit to the concerned workman and to other Dumper Operators. An industrial dispute was raised on behalf of (1) Krishna Singh, (2) B. M. Viswakarma, (3) Rajendra Singh, (4) K. S. Pandey, (5) Girish Kumar Singh and (6) Sushil Kumar Singh, the concerned workman. During the conciliation proceeding the management promoted Krishna Singh, B. M. Viswakarma, Rajendra Singh and K. S. Pandey as Senior Dumper Operator with effect from 11-1-88. These four workmen did not appear in the second test although they were amongst the 20 Dumper Operators who were called for interview in 1987. The management did not to promote Girish Kumar Singh as he had not passed the test held in 1986. The management took up the case of the concerned workman for his promotion as Senior Dumper Operator but did not take any final decision in the matter. It is relevant to mention that although the management did not take any final decision in the matter of promotion of the concerned workman, it promoted other Dumper Operators to Senior Dumper Operator, namely, C. D. Singh and M. Dubey during the conciliation proceeding with effect from 11-1-1988. M. Dubey is junior to the concerned workman. The concerned workman was promoted as Dumper Operator in 1989 whereas M. Dubey was promoted on 1-12-80. It is alleged that the concerned workman has been deliberately denied the benefits of promotion because he is not favoured by the office bearer of the so-called recognised union of the management. In the circumstances the concerned workman has prayed that he be promoted to the post of Senior Dumper Operator in Category-A with effect from 24-10-86.

4. In rejoinder to the written statement of the union, the management has asserted that the concerned workman got training for operating Bottom Dumper having 60 tonnes capacity and passed the test on 18-10-86 for operating of Bottom Dumper of the said capacity. He was given chance to operate such dumper during leave and sick vacancies, but it is incorrect to state that he passed the test for appointment as Senior Dumper Operator. The concerned workman was one of 36 candidates who submitted application for consideration of promotion in September, 1987 to the post of Senior Dumper Operator, but as per joint decision of the union and the management, 20 senior most candidates were called for interview and test to avoid supersession of seniors to the minimum. It has been asserted that S/Shri C. D. Singh and M. Dubey were successful in operating, manoeuvring and controlling dumpers under various conditions and were adjudged as capable in rectifying running break-down and hence they were promoted as Senior Dumper Operators and were given seniority with effect from 13-5-88. The concerned workman is required to pay more attention to acquire proper knowledge and skill and pass the test and get through final chance, failing which his scope for promotion with retrospective effect from 11-1-88 will be over.

5. In rejoinder to the written statement of the management the union has reiterated its case as made out in the written statement.

6. It appears that although sufficient opportunity was given to the concerned workman neither he nor his Advocate appeared on the last date of hearing.

7. The pleading of the parties arrayed indicate that the concerned workman was appointed in West Bokaro Colliery as Motor Vehicle Driver in 1977 and he was promoted as Dumpers are used in the Open Cast working of West Bokaro that two types of dumpers—Bottom Dumper and Rear Dumpers are used in the Open Cast working of West Bokaro Colliery and that the management introduced Bottom Dumper having 60 tonnes capacity in the year 1986 and along with it introduced a system for payment of Rs. 60 per month as special allowance to these Dumper Operators who were capable of operating both types of dumpers—Bottom Dumper and Rear Dumper. It appears that the concerned workman was paid special allowance at the rate of Rs. 60 per month as evidently he was capable of operating both types of dumpers. There is no dispute that a trade test was conducted

by the management in 1986 for selection of Senior Dumper Operators and 21 Dumper Operators in Excavation Category-B capable of operating both Bottom dumper and Rear dumpers were invited to appear in the interview. It appears that the concerned workman appeared in the interview and passed the test for operation of Bottom Dumper having 60 tonnes capacity. It also appears that he was given chance to operate such dumpers during the leave and sick vacancy. It has been alleged by the management that he could not prove himself upto the mark when deputed to operate Bottom Dumper having 60 tonnes capacity and so his case could not be cleared for regularisation/promotion for Senior Dumper Operator. There is no vestige of evidence on record to indicate that the concerned workman proved himself upto the mark to operate 60 tonnes Bottom Dumper under different mining conditions, narrow roadways, curves etc. The other Dumper operators who have been selected as Senior Dumper Operators presumably have passed the test and proved their worth and so the management rightly promoted them to the post of Senior Dumper Operator. The material on record does not indicate that the concerned workman has proved his worth and this being so, his claim for promotion to the post of Senior Dumper Operator in Category-A cannot be allowed.

8. Accordingly, the following award is rendered the action of the management of West Bokaro Colliery of M/s. Tata Iron & Steel Co. Ltd. in not promoting Shri Sushil Kumar Singh, Dumper Operator to the post of Senior Dumper Operator Category-A with effect from 24-10-86 is justified.

In the circumstances of the case, 1 award no cost.

Sd/-

S. K. MITRA, Presiding Officer

नई दिल्ली, 25 मार्च, 1992

का. आ.-997.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार लोयाबाद पावर हाउस आफ मैसर्स बी.बी.सी. लिमिटेड के प्रबंधन से संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, (नं. 1) धनबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को प्राप्त हुआ था।

[फाइल संख्या एल-20012(144)/82-डी-III(ए)]

बी.के. वेणुगोपालन, डेस्क अधिकारी

New Delhi, the 25th March, 1992

S.O. 997.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 1), Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the management of Loyabad Power House of M/s. B.C.C. Ltd. and their workmen which was received by the Central Government.

[No. L-20012(144)/82-D.III(A)]

V. K. VENUGOPALAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of a reference under section 10(1)(d) of the Industrial Disputes Act, 1947

Reference No. 27 of 1983

PARTIES :

Employers in relation to the management of Loyabad Power House of M/s. B.C.C. Ltd.

AND

Their Workmen.

PRESENT :

Shri S. K. Mitra, Presiding Officer.

APPEARANCES :

For the Employers.—Shri G. Prasad, Advocate.

For the Workmen.—Shri S. N. Bhattacharjee, Advocate, and Shri S. N. Goswami, Advocate.

STATE : Bihar.

INDUSTRY : Coal.

Dated, the 28th February, 1992

AWARD

By Order No. L-20012(144)/82-D.III(A), dated the 7th/8th April, 1983, the Central Government in the Ministry of Labour, has, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

"Whether the demand of casual workmen employed previously by the State Electricity Board in Loyabad Power Station, Loyabad (Dhanbad) prior to 1-10-1980 and taken over by Messrs Bharat Coking Coal Limited, for preference in employment on regular basis depending upon the number of attendance put in as casuals before 1-10-1980 is justified? If so, to what relief are the said workmen entitled?"

2. The case of the concerned workmen, as disclosed in the written statement submitted on their behalf by the sponsoring union, Bihar State Electric Supply Workers' Union, Loyabad Branch, Dhanbad details apart, is as follows :

The concerned workmen have been working as casual workmen within the industrial complex of Loyabad Power House. They are in the casual pool prepared by the management for enlistment of the name of casual worker on the roll of the management. During their long uninterrupted service career they have recorded attendance for a considerable number of period and the management had made payments to them. The management of Loyabad Power House was previously under M/s. Bihar State Electricity Board, and on 1-10-80 the B.C.C.L. management has taken over the charge of Power House alongwith its assets and liabilities including services of the workmen attached to the industry. After the said transfer the Power Stations have been attached with mine under section 3(j)(ix) of Coking Coal Mines (Nationalisation) Act, 1972 read with section 2(j)(viii) of the Mines Act, 1952 as a Captive Power plant. The concerned workmen of the industry have rendered their services to the management of B.C.C.L. A long drawn process of discussion ensued and the management has prepared several minutes of discussions and taken some steps for the finalisation of the same, but since the matter was being delayed, the union was constrained to raise an industrial dispute before A.L.C. (C), Dhanbad. The management appeared in the said dispute and submitted their comments. The comments of the management in the said dispute have not been finalised and the A.L.C. (C), Dhanbad, recorded a failure report of conciliation. Thereafter the appropriate Government has referred the present dispute for adjudication by this Tribunal. The concerned workmen, by way of clarification, have stated that the real claim by them is legal, justified and without any ambiguity and that they are casual workmen of mine and not casuals under the Factories' Act. The written statement of the management contains statements of facts which are not applicable in so far as the present reference is concerned.

3. The case of the management of Loyabad Power House of M/s. B.C.C. Ltd., as appearing in the written statement, heretofore details is as follows :

The names and particulars of the concerned workmen have not been disclosed in the reference and so the order of reference itself suffers infirmity and vagueness. Loyabad Power House was originally owned, controlled, possessed and managed by M/s. Sijua Jharia Electric Supply Co. Ltd., 1, Chartered Bank Building, Calcutta. The State Government of Bihar, by an Ordinance No. 140 of 1975 took over and acquired a large number of Electric Supply Undertakings in the State of Bihar, including Loyabad Power House of M/s. Sijua Jharia Electric Supply Co. Ltd. on 17-7-75. Simultaneously with the acquisition of the aforesaid Electric Supply Undertaking the State Government of Bihar transferred and vested the Undertakings to the Bihar State Electricity Board on the same day i.e. 17-7-75 by a letter of even date. The generation of power which is the prime function of Loyabad Power House Undertaking, beside supply electricity was completely closed sometime in March, 1980 by the Bihar State Electricity Board and there was no work even for the regular and permanent workmen employed in the power generation and in the circumstances the question of employment of casual workmen did not arise. However, generation of power was started again on 1-10-80. Under Sec. 11(1) of the aforesaid Ordinance every person who was a workman within the meaning of Industrial Disputes Act, 1947 and had been immediately before vesting date, in the employment of the undertakings became on and from the date of vesting an employee of the State Government Board on the same terms and conditions as were applicable to them. Only such casual workmen, if any, who had been in the employment on the date of vesting became the employees and those who were not ceased to be employees of the State Government of Bihar or Bihar State Electricity Board. Subsequent to the Ordinance No. 140 of 1975 and its revalidation from time to time the State Government of Bihar enacted the Bihar State Electricity Supply Undertaking (Nationalisation) Act in 1979 and the workmen who had been in the employment on the 'appointed day' i.e. 1-5-80 became an employee of the Bihar State Electricity Board on the same terms and conditions. The workmen, casual or others, who were not in the employment on the 'appointed day' on 1-5-80 ceased to be an employee of the Bihar State Electricity Board. The management and control of Loyabad Power House was transferred to B.C.C.L. by order dated 27-8-80 issued by the Joint Secretary, Government of Bihar with effect from 1-10-80. The ownership of Loyabad Power House is still to be vested and transferred under the law to B.C.C.L. with retrospective effect from 1-10-80. Under the terms of the transfer, M/s. B.C.C.L. had made it clear to the Bihar State Electricity Board that M/s. B.C.C.L., the transferee company shall be in a position to take over the office and staff numbering 682 as were said to be employed on 1-5-80. Bihar State Electricity Board handed over to B.C.C.L. a strength of 682 permanent employees and workmen, but in fact only 619 workmen besides 10 officers were on rolls of the Loyabad Power House and the remaining 53 posts were reported to be vacant. It is not a condition of transfer that B.C.C.L. shall take/employ any of the casual workmen and as such it is a discretion of B.C.C.L. to employ or not to employ and to take service of any of the casual workman. Hence, the casual employees who are not likely to be taken can not have any claim for regular employment from B.C.C.L., the transferee company. On 1-5-80 and 1-10-80 15 and 164 casual workmen respectively were on the roll of the Loyabad Power Station. None of the casual workman was retrenched nor does the management of B.C.C.L. propose to employ any person at present on regular basis and therefore the casual workmen cannot claim preference in the matter of re-employment on regular basis under Section 25H of the Industrial Disputes Act. From the available records it appears that since 1978 to 1980 only 12 casuals in 1978 and 33 casuals in 1979 were in continuous service as defined under Sec. 25-B(2) of the Industrial Disputes Act. No casual workman was in continuous service in 1980. Since Loyabad Power Station which is a Factory was transferred to M/s. B.C.C. Ltd. by agreement, every workman including such casuals who had been in continuous service for not less than a year in the Undertaking were entitled to notice and compensation in accordance with the provision of Sec. 25FFF of the Industrial Disputes Act as if the workmen had been retrenched by the outgoing employer, namely, B.S.F.B. But they cannot claim employment from M/s.

B.C.C. Ltd as there was no contract to employ such casual workers. M/s. BCCL as per its assessment of manpower required for the successful operation in Loyabad Power House required the services of 123 casual workmen and M/s. BCC Ltd. has taken up in regular employment 123 casuals as per their attendance. The employer of Loyabad Power Station of M/s. BCC Ltd. does not propose or intend to employ on regular basis any further workmen. It is for the management to decide the strength of its work force to carry out efficiently the working of the undertakings. Loyabad Power House is a small undertaking and cannot absorb any more casual workmen. On the other hand, Bihar State Electricity Board is a vast Organisation employing lakhs of workers throughout the State of Bihar and, therefore, Board, can easily provide regular employment to such casual workers in course of time. Under Section 25-H of the Industrial Disputes Act only those persons who have been retrenched can claim preference in the matter of employment and since none of the casuals were retrenched the question of preference in the matter of employment on regular basis or otherwise does not arise at all. There exists no relationship of employer and employee between the employers of Loyabad Power Station and the casual workers who might have been previously employed by the Board. M/s. B.C.C. Ltd. is not a successor-in-interest of the Board and the question of successor-in-interest which is a matter of substantial question of Industrial Dispute cannot be decided as an incidental question. Loyabad Power Station is out and out a Factory under the Factories' Act, 1948 and Bihar Factories Rules, it is registered as a factory and is not a mine. In the circumstances the Central Government is not the appropriate Government to refer the present industrial dispute for adjudication by this Tribunal. Janta Mazdoor Sangh which has raised and sponsored the instant dispute in C.W.J.C. No. 5044/83(R) between Janta Mazdoor Sangh and M/s. B.C.C.L. In the dispute the Sangh has stated that M/s. B.C.C.L. is not a employer of Loyabad Power House and that it had no power to take disciplinary action against any workman employed in Loyabad Power House. The union has challenged the jurisdiction and authority of M/s. B.C.C. Ltd. and their officers to take disciplinary action against the workmen employed in Loyabad Power House. Hon'ble Patna High Court has already held in C.W.J.C. No. 1002/77, No. 1008/78 and No. 758/71 between Janta Mazdoor Sangh and others Vs. Loyabad Power House that the workmen of the Power House are still the employees of the Board. In the circumstances, the management has submitted that the demand of the persons concerned is not justified.

4. In rejoinder to the written statement of the management, the union has stated that the Power Station in question is a captive power plant and has been supplying power to the mines for the operation of the collieries and it is not a factory within the meaning of Section 2(m) of the Factories Act, 1948. It has been alleged that the management intends to disown step already taken by it. The claim of the concerned workmen does not suffer from any ambiguity or vagueness as alleged by the management. It has been admitted that Loyabad Power House was originally owned, controlled, possessed and managed by Sijua-Jharia Electric Supply Company and the State Government of Bihar by Ordinance No. 140/75 took over and acquired a large number of Electric Supply undertakings in the State of Bihar including Loyabad Power House and that simultaneously the State Government of Bihar transferred and vested the undertakings to Bihar State Electricity Board on the same date. The union has denied and disputed the other statements of facts and legal position taken by the management in the written statement.

5. In rejoinder to the written statement of the union, the management has denied and disputed the statement of facts as made out in the written statement of the sponsoring union.

6. In the additional written statement the management has stated that Bihar State Electricity Board ultimately refused to transfer Loyabad Power House to M/s. B.C.C. Ltd. and this being so, the ownership, management, supervision and control of Loyabad Power House remained with Bihar State Electricity Board and it did not vest in M/s. B.C.C. Ltd. Bihar State Electric Board does not supply electricity solely and mainly for the purpose of mine or a number of mines under the same management, but it supplies electricity to all

consumers in the market throughout Bihar and by no stretch of imagination it can be called a mine. The present reference has become infructuous as Loyabad Power House remained with the Bihar State Electricity Board and it was neither taken over nor would it be taken over by M/s. B.C.C. Ltd.

7. In rejoinder to the additional written statement of the management, the union has asserted that Loyabad Power House has been taken over by M/s. B.C.C. Ltd. on 1-10-80 and consequently the manpower was also taken over by M/s. B.C.C. Ltd. as per employment position as on 1-10-80. It is incorrect to say that Bihar State Electricity Board refused to transfer Loyabad Power House to M/s. B.C.C. Ltd. It has been asserted that all the casual workers of the Power House who were in employment on or before take over of the management of Power House by M/s. B.C.C. Ltd. dated 1-10-80 have become the employees of M/s. B.C.C. Ltd. By another additional written statement the union has annexed a list of 105 workmen who were working as casual workmen on or before 1-10-80, the date of taking over of Loyabad Power House by M/s. B.C.C. Ltd.

8. The sponsoring union has examined four witnesses and laid in evidence a number of documents which have been marked Exts. W-1 to W-3/3.

On the other hand, the management has examined four witnesses and laid in evidence a sheaf of documents which have been marked Exts. M-1 to M-6.

9. Undisputedly, Loyabad Power House was originally owned, controlled, possessed and managed by Sijua-Jharia Electric Supply Company Ltd. having its registered office at 1, Chartered Bank Building, Calcutta. The State Government of Bihar, by an Ordinance No. 140 of 1975 took over and acquired a large number of electric supply undertakings in the State of Bihar including Loyabad Power House of Sijua-Jharia Electric Supply Co. Ltd. on 17-7-75. Simultaneously with acquisition of the aforesaid electric supply undertakings the Government of Bihar transferred and vested the undertakings including Loyabad Power House to the Bihar State Electricity Board on the same day i.e. 17-7-1975.

10. It is the case of the management that the management and control of Loyabad Power House (hereinafter referred as Power House) was transferred to M/s. B.C.C. Ltd. with effect from 1-10-80 by order dated 27-9-1980 issued by the Joint Secretary, Government of Bihar and that ownership of the said Power House is still to be vested in and transferred to M/s. B.C.C. Ltd. These statements of facts have not been denied by the sponsoring union. Nevertheless, the union has asserted that M/s. B.C.C. Ltd. had taken over the charge of the Power House alongwith the assets and liabilities including the service of the workmen attached to it. This being the position, the question that comes up for consideration is whether the management of M/s. B.C.C. Ltd. has taken over simply because the management and control of Power House, as asserted by the management of M/s. B.C.C. Ltd. or the ownership of the Power House has vested in and transferred to M/s. B.C.C. Ltd. as asserted by the union.

11. Both the parties have laid evidence, both oral and documentary to prove their respective contentions. MW-1 Gyan Shankur, who was posted to Loyabad Power House from 1-10-80 to 9-4-84, has stated in his testimony that the Power House was taken over and nationalised by the State of Bihar alongwith other Power Houses situate in the State of Bihar. The State of Bihar, after taking over and nationalisation of the Power House, made over its management to the State Electricity Board. Bihar and the workmen of the Power House became the employees of Bihar State Electricity Board. His evidence further discloses that there was a talk of transfer of Loyabad Power House to M/s. B.C.C. Ltd. But it did not materialise during his tenure of service in the Power House. M.W. 3 P.M. Prasad was posted as Senior Personnel Officer in the Power House from December, 1980 to 22-2-82. He has stated that during his tenure of office, the power house was not transferred to M/s. B.C.C. Ltd. and Resident Engineer of Bihar State Electricity Board was posted in the power house to look after the administration. WW-1 Dhiren Singh claimed to have worked in the power house in the capacity of General Mazdoor. He has stated that the power house was taken over by M/s. B.C.C. Ltd. His

evidence does not disclose that the power house was transferred to M/s. B.C.C. Ltd. WW-2 Rajendra Singh is the Secretary of Bihar State Electric Supply Workers' Union Loyabad Branch. He has stated that M/s. B.C.C. Ltd. took over the power house with effect from 1-10-80 and the General Manager, Area-V of M/s. B.C.C. Ltd. has been looking after the power house since take over. But the oral evidence of witnesses cannot settle an unsettled fact or unsettle a settled fact. The fact as emerging from the documentary evidence is that Government of Bihar was contemplating transfer of the power house to M/s. B.C.C. Ltd. This is evidenced from the letter of Sri Hira Prasad, Joint Secretary to the Government of Bihar to the Chairman, Bihar State Electricity Board (Ext. M-1). In his letter dated 27-9-80 Sri Prasad wrote to the Chairman, Bihar State Electricity Board that Bihar State Electricity Board would work out the terms and conditions of transfer as found most favourable to it and the State Government and among others, the conditions must incorporate the liability of M/s. BCC Ltd., for payment of all past, present and future compensation as may be found valid. Thus, this documentary evidence does not indicate that the Ownership of the power house was transferred to M/s. BCC Ltd.

S/Shri S. N. Bhattacharjee and S. N. Goswami, Advocates, appearing for the union, have contended that the power houses have been transferred to M/s. BCC Ltd. and in support of their contentions they have placed reliance on the circular dated 22-11-1980 issued by M/s. BCC Ltd. (Ext. W-1). This circular simply indicates that the power house has been taken over by M/s. BCC Ltd. on 1-10-1980 and consequently the man-power which includes the strength of temporary workmen have been taken over as per employment position as on 1-10-1980. This circular does not indicate that the power house was transferred to M/s. BCC Ltd. Thus, upon consideration of evidence on record, I come to the conclusion that the ownership of the power house has not been transferred to M/s. B.C.C. Ltd. although it was so intended by the Government of Bihar. This being so the demand of the workmen that they have become the employees of M/s. B.C.C. Ltd. since the take over with effect from 1-10-1980 is not technically correct.

12. Nevertheless, the fact remains that the management of M/s. B.C.C. Ltd. took over the management of the power house with effect from 1-10-1980. The management of M/s. B.C.C. Ltd. cannot deny and dispute this fact. The pleadings of the parties and the evidence on record amply clinche the issue. The management by adducing evidence, has tried its best to dilute the matter. This I state with reference to the evidence of M.W. 3 P. M. Prasad. Shri Prasad has stated that Resident Engineer was posted in the Power House to look after the administration and the position was that M/s. B.C.C. Ltd. was looking after the generation side of the Power House while Bihar State Electricity Board was looking after its distribution side. I consider that even, these different areas of activities in the power house by M/s. BCC Ltd. and Bihar State Electricity Board do not displace the fact that M/s. B.C.C. Ltd. was in-charge of the power house. It may be that for the convenience of administration and workings of the establishment M/s. B.C.C. Ltd. and Bihar State Electricity Board selected their areas of activities but that does not indicate that M/s. B.C.C. Ltd. was not in-charge of the power house. Financially also the evidence indicates that the power house was in charge of M/s. BCC Ltd. MW-1 Gyan Shankur has stated that the system of accounting during his tenure was that M/s. BCC Ltd. used to pay for the entire establishment and adjust the amount from Bihar State Electricity Board. Hence, I come to the conclusion that M/s. BCC Ltd. took over the management of Power House from Bihar State Electricity Board.

13. In the present reference the point for determination is whether the demand of the casual workmen employed previously by Bihar State Electricity Board in Loyabad Power Station prior to 1-10-1980 and taken over by M/s. B.C.C. Ltd. for preference in employment on regular basis depending upon the number of attendance put in as casuals before 1-10-1980 is justified or not. The reference order does not spell out the names of the casual workmen in respect of whom preference in employment on regular basis was demanded. The union has submitted a list of 105 of such workmen as late as on 23-8-1989. MW-1 Gyan Shan-

kar has stated in his evidence that 628 workmen including 10 officers were on the permanent roll of the Power House and there were some casual workmen working in the Power House from before his joining there. He has proved document on the subject 'formation of casual pool' (Exts. W-2 and W-2/1). He has also admitted that alongwith the document Ext. W-2/1 a list of 940 casual workmen were provided. According to him, they had worked in the Power House before his joining there intermittently and during his tenure of service these workmen did not work in the Power House regularly and continuously.

The union has asserted that the management of M/s. B.C.C. Ltd. carried on discussion with the union for finalisation of this list and regularisation of casual workmen of the Power House. This is indicated from the minutes of discussion dated 25-12-1981 (Ext. W-3) and minutes of discussion dated 10-2-1981 (Ext. W-3/1) held between the General Manager of Sijua Area of M/s. B.C.C. Ltd. and representatives of the sponsoring union. Thus, it is evident that discussions ensued between the management of M/s. B.C.C. Ltd. and the sponsoring union over finalisation of the list of casual workmen and their regularisation. Evidently the management of M/s. B.C.C. Ltd. was holding such discussion in the course of the management of Power House. It is the job of the management to sort out problems with the workmen and in the process the management of M/s. B.C.C. Ltd. held discussion with the representatives of the union over the very live issue i.e. Finalisation of the list of casual workmen and their regularisation. The management of M/s. B.C.C. Ltd. cannot resile from this position. But at the same time it is desirable that the management of Bihar State Electricity Board which is technically the owner of the Power House should be associated with such discussion.

Hence, I direct the management of M/s. B.C.C. Ltd. to finalise the matter of the number of casual workmen and their regularisation in the service of Power House with the sponsoring union in association with the management of Bihar State Electricity Board. On these terms the present reference is disposed of.

14. Accordingly, the following award is rendered—the management of M/s. B.C.C. Ltd. is directed to finalise the number of casual workmen taking into consideration the attendance of such workmen prior to take over and thereafter and their regularisation with the sponsoring union in association with the management of Bihar State Electricity Board.

In the circumstances of the case, I award no cost.

-S. K. MITRA, Presiding Officer

नई दिल्ली, 25 मार्च, 1992

का.ग्रा. 998.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्तर्गण में, केन्द्रीय सरकार, बैंक आफ इण्डिया, पटना के प्रबन्धन में संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधीकरण, (नं.-2) धनबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को प्राप्त हुआ था।

[फाइल संख्या एल-12012/501/88-डी-II (ए)]

वी. क. वेणुगोपालिन, ईष्क अधिकारी

New Delhi, the 25th March, 1992

S.O. 998.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 2), Dhanbad as shown in the Annexure

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in the industrial dispute between the employers in relation to the management of Bank of India, Patna and their workmen which was received by the Central Government.

[No. L-12012/501/88-D.II(A)]

V. K. VENUGOPALAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

In the matter of an industrial dispute under Section 10(1)(d) of the I.D. Act, 1947

Reference No. 4 of 1989

PRESENT :

Shri B. Ram, Presiding Officer.

PARTIES :

Employers in relation to the management of Bank of India, Patna and their workmen.

APPEARANCES :

On behalf of the workmen : None.

On behalf of the employers : Shri A. K. Karan, D.C.O. (IR).

STATE : Bihar.

INDUSTRY : Banking.

Dated: Dhanbad 28th February, 1992

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-12012/501/88-D.II(A), dated, the 8th March, 1989.

SCHEDULE

"Whether the action of the management of Bank of India, Bihar Zone in not restoring the seniority of Shri B. K. Tewary from the date of joining i.e. 1-10-81 as permanent clerk for the purpose of assignment of duties of clerk cashier attracting special allowance is justified? If not, to what relief the workman is entitled?"

2. Admittedly, Shri B. K. Tewary, joined Bank of India as Accounts Clerk at Vivekananda Road, Branch, Calcutta, Eastern Zone, Calcutta on 1-10-81. It is further admitted that Shri Tewary on request was transferred to Bihar Zone Bihar Branch as Cash-cum-Accounts Clerk vide order dated 24-5-84. Shri Tewary stated that he reported for duty at Bihar Branch on 30-7-84 and after completion of 3 years i.e. from 30-7-87 his seniority from the date of joining restored for assignment of duties attracting special allowance as per settlement dated 26-5-86. The Bank of India management also issued a letter dated 31-8-87 conforming the restoration of his seniority for assignment of his special allowance duties with effect from 1-10-81. Shri Tewary stated that he was assigned duties of Clerk Cashier for a specified period from time to time at Bihar Branch.

3. Bank of India Bihar Zone management circulated vacancy of Clerk cashier for regular assignment for unspecified period at different branches of Bihar Zone vide circular dated 12-8-87. Shri Tewary as stated by him applied for the Clerk Cashier duty at different branches of the Zone but he was served with a letter dated 16-11-87 intimating that this seniority for Clerk Cashier duty will not be taken from the date of joining the Bank services i.e. from 1-10-81 which according to Shri Tewary was incomplete disregard of the settlement dated 26-5-86.

4. Shri Tewary filed representation for reckoning his seniority from the date of his joining and for assignment of duty for Clerk Cashier for the branches applied for. But the management not only illegally declined the same but also withdrew his seniority already restored vide letter dated 16-1-88 (Annexure A/3).

5 Shri Tewary stated that he again applied for assignment of duties of Clerk Cashier on regular basis in the response to Zonal Office Circular dated 31-8-88 and then he was served with a Memorandum for his assignment of the duties for Clerk Cashier at Kaju Branch taking his seniority from the date of joining the Bank's services. Thus it has been prayed on behalf of the workmen that the Bank of India be directed to assign the duties of Clerk Cashier Cat. C in response to the Circular dated 12-8-87 with retrospective effect from 1-11-87 which date his juniors were asked for assignment of Clerk Cashier. It was further prayed that the Bank of India management be directed to include Shri Tewary's name for assignment of Special assistance duties in Hazaribagh district Zone where junior to Shri Tewary were asked to appear at interview for selection of special assistance duties.

6 The management has also filed WS denying the claim of Shri Tewary. It was stated that in case of request transfer the seniority of the workmen was to be reckoned from the date reporting of the transferee branch for the purpose of assignment of duties attracting his special allowance. However after 26-5-86 only in case of request transfer the seniority after lapse of 3 years at the transferee branch was restored to the date of joining the Bank's services as was the case earlier in respect of special assistant. The management urged that however this change did not cover the case of job transfer.

7 At this very stage I would like to mention here that for the last few date there was no response on behalf of the workmen. One witness was examined, cross-examine and discharged on behalf of the management as back as 20-3-1990 but since then no effective parity was done on behalf of the workmen. I find that necessary notices were issued upon the workmen's representative but it was of no use. It may be mentioned that the representative of workmen had received the notice dated 10-10-91 and still nobody turned up on his behalf when the case was posted for argument. The case could not have been lingered unnecessarily and the argument on behalf of the management was heard ex-parte.

8 The management stated that the concerned workman was transferred to Bihia Branch in Bihar Zone where he was offered the post of Cash-cum-Accounts Clerk which he accepted. In this way Shri Tewary accepted the job as well as place transfer on 29-5-84 and so his seniority could not be restored from the date of his joining as per the norms applicable at that time.

9 However an agreement with Bank of India Employee's Union, Bihar State dated 8-8-88 it was decided to restore the date of joining seniority of the Clerks who had opted for job transfer also after a period 3 years for assignment of the duties of Clerk Cashier in line with the place transfer case. The seniority of Shri Tewary and others like him was accordingly restored to date of the joining the Bank's services from 8-8-88 i.e. when the job transfer agreement was entered into between the management of Bank of India Employees Union (Bihar State). It was further stated that subsequently the management invited the applications for the post of Clerk Cashier for 29 branches including Kaju Branch vide circular dated 31-8-88 and the selection of the Clerk Cashier for these branches was done taking into consideration the job transfer agreement dated 8-8-88. As such the case of Shri Tewary was also restored from the date of his joining i.e. 1-10-81 and accordingly he was offered the assignment of Clerk Cashier at Kaju Branch.

10. At the very outset I may refer to Ext. W-5 whereby, on request, the management had transferred the concerned workman to Bihia Branch as Cash-cum-Accounts Clerk. Shri Tewary had agreed to such transfer and had put his signature at the appropriate place agreeing to the conditions of the transfer. The means his was not only the case of place transfer but also the job transfer. In this connection I may refer to the evidence of MW-1 Shri Mihirdeo Sharma who stated on oath that procedure for assignment of special duty of the Clerk Cashier have been changing from time to time as per head-office instruction which in turn is normally based on various agreement between the employees union and the management. The witness stated that as per the norms prevailing before 1986 the seniority was to be decided based on the date of place transfer as well as the date of job

transfer. In the year 1986 as per the agreement with the majority union restoration of the seniority after a lapse of 3 years of place transfer was given. He again stated that the restoration of seniority of job transfer was only made sometimes in 1988 as per the agreement with majority union and the management. During the cross-examination the witness stated that the condition for job transfer is mainly the necessity of the Bank which may at time coincide with the request of the employees concerned. Normally no job transfer is given to a particular employee without the consent of the employees concerned. However in the instant case the consent of Shri Tewary was obtained on the memorandum of transfer which he did by putting his signature. According to the witness had Shri Tewary not consented for his job transfer also along with his place transfer he should not be accepted the transfer memorandum. Since there was no vacancy of Accounts Clerk at Bihia so he might not have got his place transfer as well. In this connection reference may be made to Ext. M-3 which deals with the restoration seniority of job transfer. This is the letter dated 8-8-88 written to the Zonal Manager Bank of India Bihar Zone by the General Secretary.

11. Ext. W-4 is the photo copy of the application dated 1-12-1983 of Shri Tewary requesting for transfer to Bihar Zone to enable him to join his family members specially when his father a permanent patient of Asthma was ailing. Thus, it is evident that Shri Tewary was transferred for his own necessity and it was not only the place transfer rather place-cum-job transfer and for the reasons stated above his seniority could not have been restored from the date he joined the Bank's services. For the facts noted it is evident that Shri Tewary was accommodated by the job transfer as well as place transfer otherwise he would not have got the place. His acceptance of his posted (Ext. W-5) is crystal clear that he was ready to be transferred which he accepted it by putting his signature on the memorandum of transfer. For the reasons stated above I think that the claims of the concerned workman cannot be allowed to sustain and therefore the action of the management of the Bank of India, Bihar Zone in not restoring the seniority of Shri B. K. Tewary from the date of joining i.e. 1-10-81 as permanent clerk for the purpose of assignment of duties of clerk cashier attracting special allowance was justified and consequently the concerned workman is not entitled to any relief.

This is my Award.

B. RAM, Presiding Officer

नई दिल्ली, 25 मार्च, 1992

क.आ. 999. — औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, कटरा चौधूड़ीह कोलगी ग्रॉफ मैसर्स भारत कोकिंग कोल लिमिटेड के प्रबन्धतंत्र से संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, (नं.-2) धनबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को प्राप्त हुआ था।

[फाइल संख्या एल-24012(62)/86-डी-IV (बी)]

बी.के. वैष्णोपालन, डेस्क अधिकारी

New Delhi, the 25th March, 1992

S.O. 999.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No.2), Dhanbad as shown in the Annexure

in the industrial dispute between the employers in relation to the management of Katras Choitudih Colliery of M/s. Bharat Coking Coal Limited and their workmen which was received by the Central Government.

[No. L-24012(62)/86-D.IV(B)]

V. K. VENUGOPALAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL (NO. 2) AT DHANBAD
PRESENT:

Shri B. Ram, Presiding Officer.

Reference No. 67 of 1987

In the matter of an industrial dispute under Section
10(1)(d) of the I. D. Act, 1947.

PARTIES :

Employers in relation to the management of Katras
Choitudih Colliery of M/s. Bharat Coking Coal
Limited. and their workmen.

APPEARANCES :

On behalf of the workmen—Shri D. Mukherjee, Secre-
tary Bihar Colliery Kamgar Union.

On behalf of the employers—Shri B. Joshi Advocate.

STATE : Bihar. INDUSTRY : Coal

Dated, Dhanbad, the 21st February, 1992

AWARD

The Govt. of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-24012(62)/86-D.IV(B), dated, the 17th January, 1987.

SCHEDULE

"Whether the demand of Shri H. S. Biswas, Asstt. Cap Lamp Incharge Gr. II of Katras Choitudih Colliery of M/s. B.C.C. Ltd., for promotion/regularisation as Cap Lamp Incharge Gr. I w.e.f. 2-12-83 and payment of Cat. V wages from 1-1-1980 is justified. If so, to what relief the workman is entitled?"

2. Shri H. S. Biswas the concerned workman of Katras Choitudih colliery has demanded his regularisation in Gr. I as Cap Lamp Incharge with effect from 2-12-83 and also Cat. V. wages with effect from 1-1-1980. He has filed W.S. stating his claims. According to him in the year 1980 the management had promoted one Shri K. K. Dutta as Cat. V Cap Lamp Fitter superseding the concerned workman although Shri Dutta was junior to him. The management issued office order on 2-12-83 directing the concerned workman to work as Cap Lamp Incharge Gr-I since then he has been continuously working as Cap Lamp Incharge Gr-I to the full satisfaction of the management but in spite of the aforesaid facts the management has been paying only Gr-II wages.

3 The concerned workman represented his case before the management several times for equal pay for equal work but without any effect. The union ultimately had to raise industrial dispute before the ALC(C), Dhanbad which ended in failure and hence this reference. It has been proved that the concerned workman should be regularised as Gr-I Cap Lamp Incharge with effect from 2-12-83 and Cat-V wages from 1-1-1980 with all arrears of wages and attendance benefits.

4. The management has refused every claim of the concerned workman and it was stated that the concerned workman as Asstt. Cap Lamp Incharge has been rightly placed in Gr. II. It was contended further that the concerned workman was working as Cap Lamp Fitter in Cat. IV prior to his promotion to the post of Asstt. Cap Lamp Incharge by order dated 3-3-83 on the recommendation of the D.P.C. and therefore his demand for Cat. V from 1980 is without any merit. It is wrong to say that Shri Dutta was junior to

Shri Biswas. The matter was examined and it was found that Shri Dutta had joined service in the colliery in 1959 as Cap Lamp Helper whereas the concerned workman joined his service in 1963 as Electrical Helper. It was further submitted that the concerned workman was promoted to the post of Asstt. Cap Lamp Room Incharge on 3-3-83 and as per the Cadre Scheme there was no scope for promotion. Lastly the management further submitted that Shri Biswas has not been promoted to the post of Cap Lamp Room Incharge in Gr-I and was never deputed to work as such at any time. He is getting the pay for the duties performed by him as fixed under NCWA-III. In the circumstances it has been submitted that the Award be passed holding that the concerned workman is entitled to any relief.

5. The only point for consideration is whether the concerned workman is entitled for his regularisation in Gr-I as Cap Lamp Incharge with effect from 2-12-83 and also for Cat. V wages with effect from 1980.

6. It was alleged that the concerned workman with one Shri K. K. Dutta junior to him was promoted in 1980 as Cap Lamp Fitter in Gr-V and his case was ignored by D.P.C. In the light of such assertion first of all we will examine whether the concerned workman was senior to Shri K. K. Dutta. In Cross-examination Shri H. S. Biswas, the concerned workman stated that he had not raised any dispute on promotion of Shri Dutta as Cap Lamp Fitter in 1980. He claims to have joined as Electrical Helper in 1958 but he has denied his knowledge that Shri K. K. Dutta had joined as Cap Lamp Fitter in 1959. The photo copy of Form B Register is Ext. M-3. It will simply show that Shri Biswas has joined his duty in 1963 as Electrical Helper. The name of Shri K. K. Dutta appears against Sl. No. 175 whereas he has been shown as Cap Lamp Fitter and his date of commencement of employment has been shown as 1959. At least this document shows that Shri Biswas was junior to Shri Dutta. Again the concerned workman stated in his cross-examination that his date of joining has been wrongly recorded in Form B Register. Admittedly he had not raised any dispute that his date of birth has been wrongly recorded. He simply stated to have written to the management in this regard but there is nothing on the record to support the contention of the concerned workman. It may be noted that the name of Shri Biswas appears against Sl. No. 127 and that of Shri K. K. Dutta against Sl. No. 175 and both of them had put their signature in Col. 9 of the Form B Register. This means the concerned workman was quite aware from before that his date of employment has been recorded as 1963. In the circumstances there could have been hardly any reason for the concerned workman to keep mum over the matter. I hold therefore that the concerned workman was junior to Shri Dutta. It has been suggested to MW-1 that the photo copy of Form B Register was not prepared from the original but this fact has been denied by the witness. It has again been suggested that in original Form 'B' Register the date of employment of the concerned workman has been shown in 1958. However this suggestion has been denied. Anyway in view of the document (Ext. M-3) I find no substance in the contention raised by the learned counsel for the workman.

7. It has been alleged that the concerned workman has been discharge his duties as Cap Lamp Incharge Gr. I since December, 1983 continuously to the full satisfaction of the management but he is being paid wages of Gr. II. Reference was made to Ext. W-1 which is a photo copy of the office order dated 2-12-83 whereby the concerned workman and others were directed to take charge as Cap Lamp Incharge. Shri Biswas claims that since then he has been working as Cap Lamp Incharge. I have perused the document Ext. W-1 and against the name of Shri H. C. Roy there is an endorsement which runs as follows :—

"Will work as general Cap Lamp room incharge looking after all the Cap Lamp Room. He will daily monitor the report of position of the Cap Lamp requirement of spares and assist. different Lamp Cabin Staff and proper maintenance of Cap Lamp and Safety lamps."

This portion of the office order is crystal clear that Shri Roy was made incharge to look after all the Cap Lamp Rooms. In view of this specific direction I do not think that the concerned workman and others were given full and free hand to work as Cap Lamp. It can be further inferred that they were not to discharge their duties as Cap Lamp Incharge independently. In this connection reference also may be made to Ex. M-4 whereby the Personnel Manager, Katras Area was intimated by Dy. C.M.E. Katras Choitudih colliery that in the office order dated 2-12-83 (Ext. W-1) the word "Assistant" is missing due to clerical error and oversight. The letter is dated 14-2-1986.

8. Certainly this letter was written after about 2 years and this definitely sparks utter carelessness and irresponsible behaviour on the part of the management. MW-1 has stated in cross-examination that since after the aforesaid office order Ext. W-1 the concerned workman has been discharging his duty as Cap. Lamp Incharge. The learned counsel for the workmen in his continued submission pointed out the glaring manipulation occurring in Attendance Register Ext. W-4. In the attendance for the period from 15-6-86 to 21-6-86 the name of the concerned workman appears. Col. 5 of the Register states the class of employment and against the name of Shri H. S. Biswas, Asstt. Cap Lamp Incharge has been noted but apparently it appears that the letter "A" has been subsequently added. Something appears in the Attendance for the period from 22-6-86 to 5-7-86 and so on. Ext. M-6 series are the bonus sheet of the concerned workman. In the bonus sheet for the year 1984 and onward, the concerned workman has been shown as Cap Lamp Incharge. The learned counsel for the workmen urged that again letter "A" in the designation is subsequent addition. However, the same argument was advanced by the management as in case of Ext. M-5 series. The learned counsel for the management urged that mistake occurring in the register must have been corrected in the light of the letter dated 14-2-86 (Ext. M-4). The learned counsel may be correct in his assertion but that was not the procedure for correction of the entry already made. There should have been separate order for such correction. The letter (Ext. M-4) is silent about any correction in the Attendance Register. The Attendance Register has been marked Ext. M-5 series.

9. Ext. M-1 is the photo copy of the office order dated 3-3-83 whereby Shri Biswas as Cap Lamp Fitter Cat. IV was promoted as Asstt. Cap Lamp Incharge Gr-II. Asstt. Cap Lamp Incharge after promotion gets the post of Cap Lamp Incharge as it was done in case of Shri B. K. Sengupta. As regards promotion it was pointed that the concerned workman was promoted earlier as Asstt. Cap Lamp Incharge than Shri Dutta and reference was made to Ext. M-2 which shows that Shri Dutta was promoted to as Asstt. Cap Lamp Incharge on 27-10-83 whereas Shri Biswas the concerned workman was promoted to this post on 3-3-83 (Ext. M-1). MW-1 has stated that Shri Dutta had joined in 1959 as Cap Lamp Fitter but the concerned workman had joined as Electrical Helper in 1963. Naturally Shri Dutta had better experience in Lamp room section. The learned counsel for the management pointed out that there is a cadre scheme for electrical and mechanical discipline and for promotion to the post of Lamp room incharge three years experience as Asstt. Lamp Room Incharge is necessary. Necessary provision as per Annexure VII of promotional channel of E & M was shown and explained. I think the cadre scheme has got its own important and nobody can claim any promotion beyond the scope of this scheme. No doubt as per evidence of MW-1 the concerned workman has been working as Cap Lamp Incharge since December, 1983 (Ext. W-1).

10. The learned counsel for the workmen seriously canvassed, the principles of equal pay for equal work. It was urged that the concerned workman has been discharging the duties of Cap Lamp Incharge and since long time but he has been denied the real wages of Cap Lamp Incharge. I find that the concerned workman has also asserted this fact in his evidence. The learned counsel placed his reliance upon the authority reported in 1985 LIC Page—1223, Their Lordships were pleased to hold as follows —

"In our opinion it would be a great injustice to continue the appellants on the scales of pay of Draughtsmen

even after promotion as Senior Draughtsmen, which is destructive of all incentive and initiative in the service."

In the authority cited above the appellants were getting the pay scale of Draughtsmen even after their promotion as senior Draughtsmen. Here in the present reference the case is quite different. The concerned workman was never promoted to the post of Cap Lamp Incharge. Even according to cadre scheme he had not completed 3 years of experience as Asstt. Cap Lamp Incharge. Similarly in the authority reported in 1987 LLJ Vol. I page-536 the case was of male and female stenographers. The question is that both were holding the same post i.e. of Stenographer. Here in the instant case there is no question of holding the same post. The concerned workman was working as Cap Lamp Incharge without any promotion. In other words he was not holding the post of Cap Lamp Incharge. Thus the principle enunciated is crystal clear that mere doing the work carrying higher scale of pay cannot confer entitlement on the employees for higher wages unless he holds that post on due promotion. I have examined all these aspects of the matter and in my opinion the concerned workman is not entitled to any relief as claimed by him. The Award is passed accordingly.

B. RAM, Presiding Officer

नई दिल्ली, 25 मार्च, 1992

का.प्र. 1000.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मुहलिडीह 20/21 पिट्स कोयली (बी.सी.सी.एल.) के प्रबन्धन के संघर्ष नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, (नं.-2) धनबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को प्राप्त हुआ था।

[संख्या एन-20012(230)/86-डी-III (ए)]

बी.के. वेणुगोपालन, डेस्क अधिकारी

New Delhi, the 25th March, 1992

S.O. 1000.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 2), Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the management of Murulidih 20/21 Pits Colliery of BCCI and their workmen which was received by the Central Government.

[No. I-20012 (230)/86-D III (A)]

V. K. VENUGOPALAN, Desk Officer.

ANNEXURE.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD.

PRESENT :

Shri B. Ram, Presiding Officer.

In the matter of an industrial dispute under Section 10(1)(d) of the I. D. Act, 1947.

REFERENCE NO. 25 OF 1987

PARTIES :

Employers in relation to the management of Murulidih 20/21 Pits Colliery and their workmen

APPEARANCES :

On behalf of the workmen : Shri D. Mukherjee, Secretary, Bihar Colliery Kamgar Union.

On behalf of the employers : Shri R. S. Murthy, Advocate.

STATE : Bihar. INDUSTRY : Coal.
Dated, Dhanbad, the 24th February, 1992

AWARD

The Government of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I. D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012(230)/86-D. III(A), dated, the December, 1986

THE SCHEDULE

Whether the demand of Bihar Colliery Kamgar Union that the management of 20/21 Pits Murulidih Colliery of M/s. Bharat Coking Coal Limited should regularise their workman, Shri Suraj Narain Tiwari in Clerical Grade-II is justified? If so, to what relief is the said workman entitled?

2. In this case both the parties made their appearance and filed their respective W. S. etc. Thereafter the case proceeded along its course. Subsequently at the stage of oral evidence of the parties, both the parties appeared before me and filed a Joint Compromise Petition under their signature. I heard both the parties and I do find that the terms contained therein are fair, proper and beneficial to both of them. Accordingly I accept the said petition of compromise and pass an Award in terms thereof which forms part of the Award as Annexure.

Sd /-

B. RAM, Presiding Officer.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2 DHANBAD

In the matter of Reference No. 25/87

PARTIES :

Employers in relation to the management of Murulidih 20/21 Pits Colliery of M/S. Bharat Coking Coal Ltd., P. O. Mohuda Dhanbad

AND

Their Workmen.

JOINT COMPROMISE PETITION OF THE EMPLOYERS AND THE WORKMEN

The above mentioned employers and the workmen most respectfully beg to submit jointly as follows : —

- (1) That the employers and the workmen have jointly negotiated the matter covered by the above Reference with a view to arriving at an amicable and mutually acceptable settlement.
- (2) That as a result of such negotiations the Employers, and the workmen have agreed to settle the matter on the following terms and conditions : —
 - (a) It is agreed that the management shall place the workman concerned Shri Suraj Narain Tiwari in Clerical Grade II, w.e.f. 1-1-1987 and his pay will be fixed in that post w.e.f. 1-1-1987 as per National Coal Wage Agreement.
 - (b) It is agreed that however, the financial benefit of placing in Clerical Grade-II will be allowed to the workman concerned only from 1-1-1968.
 - (c) It is further agreed that the workmen concerned will be given notional seniority in clerical grade II w.e.f. 1-1-1987.
 - (d) It is agreed that the above terms and conditions are in full and final settlement of all the claims of the workman concerned and the Sponsoring Union arising out of this Reference.

- (3) That the Employers and the Workmen concerned hereby declare that they consider the above terms of settlement as just, fair and reasonable to both the parties.

It is therefore prayed that the Hon'ble Tribunal may be pleased to accept this Joint Compromise Petition and dispose

of this case accordingly by giving an Award in terms thereof

Sd./- (Illegible).

Secretary, B. C. K. U.,
for and on behalf of Workman.
Date 9-12-1991

Sd./- (Illegible).
General Manager, Mohuda Area,
Bharat Coking Coal Ltd.,
for and on behalf of Employers.

Sd./- (Illegible).
(Raj S. Murthy),
Advocate for Employers.

नई दिल्ली, 25 मार्च, 1992

का.आ. 1001.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, फुलारीटण्ड कोलरी आफ मैसर्ज बी सी सी एल के प्रबन्धतंत्र में संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (नं-1), धनबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को प्राप्त हुआ था।

[फाइल संख्या एन-20012(200)/84-डी-III(ए)
आई.आर. (कोल-1)]

बी. के. वेणुगोपालन, डेस्क अधिकारी

New Delhi, the 25th March, 1992.

S.O. 1001.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 1), Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the management of Phularitand Colliery of M/s. BCCCL and their workmen which was received by the Central Government.

[No. L-20012(200)/84-D.III(A)/I.R. (Coal-1)]

V. K. VENUGOPALAN, Desk Officer.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, DHANBAD

In the matter of a reference under section 10(1)(d) of Industrial Disputes Act, 1947.

Reference No. 151 of 1989

PARTIES :

Employers in relation to the management of Phularitand Colliery of M/s. B.C.C.L. Ltd., P. O. Nawagarh, Distt. Dhanbad.

AND

Their Workmen.

PRESENT :

Shri S. K. Mitra, Presiding Officer.

APPEARANCES :

For the Employers : Shri B. Joshi, Advocate.
For the Workmen : Shri D. Mukherjee, Secretary,
Bihar Colliery Kamgar Union.

STATE : Bihar.

INDUSTRY : Coal

Dated, the 21st February, 1992

AWARD

By Order No. L-20012(200)/84-D 11(A)/IR(Coal-1), dated, the 19th October, 1989, the Central Government in the

Ministry of Labour, has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2-A) of section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

"Whether the action of the management of Phularitand Colliery of M/s. B.C.C.L. Ltd., P. O. Nawagarh, Distt. Dhanbad in stopping from employment the 70 workmen whose names are given in Annexure w.e.f. 19-12-1983 is justified ? If not, to what relief these workmen are entitled to ?"

ANNEXURE

1. Mandip Paswan
2. Durga Paswan
3. Kailash Ch. Mukherjee
4. Yadunandan
5. Bijoy Chand Kumar
6. Bijendu Prasad
7. Sukdeo Yadav
8. Balaram Samanta
9. Ajit Kr. Pal
10. Tarit Chatterjee
11. Biswanath Sarkar
12. Anup Kr. Sarkar
13. Trijogi Pandey
14. Baramdeo Yadav
15. Subasis Samanta
16. Kailash Yadav
17. Ram Chandra Yadav
18. Anugra Paswan
19. Bhola Mahato
20. Ramjan Mia
21. Unish Ansari
22. Akilesh Singh
23. Anil Kumar Das
24. Aditya Kumar Chatterjee
25. Ram Suresh Yadav
26. Nandlal Singh
27. Ganesh Kr. Sarkar
28. Ramji Prasad
29. Nanali Yadav
30. Kishna Saw
31. Bhim Sen Ram
32. Rajaram Mahato
33. Chandrika Prasad
34. Ajodhya Prasad
35. Ramnot Chobey
36. Dasarath Bhuiya
37. Jai Kumar Singh
38. Biswajit Mukherjee
39. Bindeshin Paswan
40. Taran Paramanik

41. Suresh Bhuia
42. Samu Chowdhury
43. Endradeo Das
44. Ram Ashra Pasuwan
45. Suresh Ram
46. Ram Ratan Singh
47. Indradeo Yadav
48. Arjuna Ronia
49. Satya Narayan Ghosal
50. Samir Mukherjee
51. Debi Prasad Mukherjee
52. Sudagar Ram
53. Sachida Nand Singh
54. Sitaram Paswan
55. Harlal Sao
56. Ram Sarup Prajapati
57. Raghu Nath Paul
58. Ram Dabiya Yadav
59. Raj Mohan Singh
60. Kanharla Singh
61. Ram Ishwar Prasad Yadav
62. Uday Kumar Sarkar
63. Suresh Paswan
64. Narayan Chandra Mukherjee
65. Sanichar Yadav
66. Rameswarup Malah
67. Krishna Bhuia
68. Endra Deo Das
69. Shanamlal Rajwar
70. Churaman Rajwar

2. The case of the management of Phularitand Colliery, as disclosed in the written statement-cum-rejoinder, details apart, as follows :

The present reference is not legally maintainable. There existed no relationship of employer and employee between the management and the concerned persons. The present reference has not arisen out of any industrial dispute. The union did not submit the particulars of employment, like Form 'B' Register, Identity Card number or the particulars of identification like father's name, village address etc. before the management or before the A.L.C. (C) along with proof of genuinity or photographs of the persons concerned. It is alleged that the present reference has been made on behalf of certain imaginary persons or on behalf of strangers having no relationship with any kind with the management solely for the purpose of securing employment of some persons by unfair means. In 1983, the management decided to drive an incline shaft from No. XIII to No. XI seam to a length of 250 feet and awarded contract to one Budhan Nishad to drive the said incline by work order dated 18-7-1983. It was stipulated in the work order that the inclined shaft should be ready within three months from the date of receipt of the said work order. The contract was completed by 15-12-83 and no new contract was awarded to Budhan Nishad. The management demanded the particulars of persons on whose behalf the union had raised the dispute before the A.L.C.(C). The union explained that the concerned persons had worked under the above contractor Budhan Nishad on the job of driving the incline. The size of the incline face was 14 feet wide and 8 feet in height and it is an absurdity to imagine

that seventy workmen would be employed at such a narrow face. It is difficult to accommodate more than five workmen in such incline face and for free movement and proper working only three persons could have employed in a shift. Hence, the present issue is simply an attempt to induct strangers into employment of the management with the help of litigation. The contract job of incline drivage was of temporary in nature and such jobs are never available in a colliery regularly. Such jobs are undertaken to serve an ingress or egress to a coal seam, and after reaching coal seam, the mining process for mining coal starts till the coal existing with the seam gets depleted. Considering the temporary nature of contract job, contractors are employed at different collieries on incline driving. Engagement of contract labourers on temporary or casual jobs intermittently available, has not been banned under any provision of law. On consideration of the quantity of contract work and amount of money paid to the contractor, it is impossible to believe that seventy workmen could be engaged by the contractor on any day. Some persons bearing the same names appearing in the list of workmen, might have worked under the contractor Budhan Nishad as temporary workers to complete the temporary contract jobs during the period of subsisting contract. The contractor terminated the services of all his workers. When the malpractice of inducting workman through false dispute was exposed and the Government refused to make the reference, the union took the stand that the concerned workmen are stone cutters and coal cutters and they are being paid wages through intermediaries. It is submitted that the coal cutters and stone cutters are paid by the management on the basis of payslips, individually issued to the workmen. The job of winning coal or cutting stone was not done by contract labour during the period of dispute. Now the union states that the concerned workmen were working as underground stone cutters/coal cutters since long which is absolutely wrong. The demand of the union for employment of the concerned workmen in the form of reinstatement is without any merit and liable to be rejected.

3. The case of the concerned workmen as appearing from the written statement submitted on their behalf by the Secretary of the sponsoring union, Bihar Colliery Kamgar Union, briefly stated, is as follows:

The concerned workmen had been working as underground stone cutter/coal cutters since long with unblemished record of service. The job of stone cutting/coal cutting is prohibited category of job, and is of permanent and perennial nature of job. The concerned workmen had been working in the permanent and prohibited category of job under the direct control and supervision of the Colliery management. As per Mines Act, Rules and Regulation all the underground workmen are legally bound to work under the direct control and supervision of the competent authority or person. Necessary implements for execution of the job were being supplied by the management. The concerned workmen had been working for the management and they were rendering work for producing goods and services for the management. They demanded regularisation and payment of wages as per N.C.W.A. which annoyed the anti-labour management. The management had been disbursing their wages through intermediaries which was much below the wages as per N.C.W.A. Disbursement of wages through intermediaries was nothing but legal camouflage. The management was not maintaining statutory record as per law and was not also paying them wages as per law. The concerned workmen and the union represented to the appropriate authority for taking action against the management. The I.E.O. (C), Bagmara, on the complaint of the concerned workmen and the union, had inspected the Colliery and found that the concerned workmen were working in prohibited category of job. The I.E.O. (C) also seized the statutory documents of the management. The anti-labour management not only insulted the I.E.O. (C) after spot verification but also threatened the concerned workmen to stop them from work and immediately after spot verification of the I.E.O. (C) they stopped the concerned workmen from work in 1981. Seeing the adamant attitude of the management the union raised an industrial dispute before the A.L.C. (C), demanding reinstatement of the concerned workmen in service with full back wages. The conciliation proceeding ended in a failure, but the Ministry of Labour, did not refer the dispute for adjudication presumably on the pressure of the management. The union challenged the decision of the Government of India, Ministry of

Labour, before Hon'ble High Court. The Hon'ble High Court by its order dated 12-7-89 in C.W.J.C. No 1069/85-(R) directed the Government of India to refer the dispute for adjudication. The action of the management in stopping from employment the concerned workmen with effect from 19-12-83 is illegal, arbitrary, unjustified and against the principle of natural justice. All the concerned workmen had put in continuous service and so the action of the management in stopping them from service without following the mandatory provision of law was vindictive in nature and snacks of its anti-labour policy. In the context of facts and circumstances, the union has prayed that an award be passed directed the management to reinstate the concerned workmen in service with full back wages.

4. In rejoinder to the written statement of the sponsoring union, the management has stated that coal cutting is of perennial nature of job but the stone cutting job is intermittent in nature. Certain types of stone cutting job like floor directing or ripping off roof in a thin seam may be perennial so long winning up of coal from thin seam below six feet thick continues. There is no prohibition of coal cutting or stone cutting job. As per Mines Act, 1952, a contractor during the contractual job in underground mine is deemed to be the owner in respect of works and subjected to the same responsibility and liability as the owner is in respect of all other jobs. He is bound to keep competent persons to supervise the contractual jobs and exercise control over his workmen. However, for carrying on statutory duties of inspection, checking for presence of inflammable and noxious gases and ensuring adequate ventilation and erection of supports, if needed, the Manager of the mine and supervisory personnel are required to carry on such jobs to provide safe working place to the contractor and his men. The concerned workmen were not engaged on the job of the management and necessary implements for execution of jobs were not supplied to them by the management as well. It is wrong to suggest that they were producing goods and services for the management. The assertion of the union that the concerned workmen received wages through an intermediary is false and concocted. The management is not aware of the illegal relationship of the union with the I.E.O. (C), Bagmara and the conspiracy to induct 50 concerned persons into the employment of the management. It is denied that the concerned workmen were stopped from duty after the alleged date of inspection of I.E.O. (C). It has been asserted that no document was seized from the management. The union concocted additional materials and made out a case before the Hon'ble High Court. The Hon'ble High Court wanted the materials to be examined by the Tribunal and thus the reference has come to this Tribunal. As the concerned workmen were neither appointed nor were they paid by the management, the question of stopping them from their duties did not arise.

5. In rejoinder to the written statement of the management, the union has asserted that there exists relationship of employer and employee between the management and the concerned workmen. It has been alleged that the management did not record the names of the concerned workmen in Form 'B' Register and issue Identity Card to them only to deprive them of their legitimate claim. Had the management done everything legally by treating the concerned workmen as employees of the management by abiding the mandatory provision of law before termination/stoppage of service, the concerned workmen would have no occasion to file the case before the Tribunal. It has been reiterated that the concerned workmen had been performing permanent and prohibited category of job since long. The so-called contractor had no licence under the Contract Labour (Regulation and Abolition) Act nor is the management possessing any registration certificate for engaging so-called contractor in prohibited category of job. The union did not take any plea before the A.L.C. (C) that the concerned workmen were working under the contractor, Budhan Nishad. It has been asserted that for the first time before the Tribunal the management has been taking the plea of engagement of Budhan Nishad as contractor for underground drivage on the advice of legal expert to camouflage the real issue. It is absolutely false to state that the stone cutting and drivage of stone is temporary nature of job. As per Wage Board Recommendations, the job of stone cutters is a permanent nature of job and in almost all the

Collieries of Coal India there is many stone cutters. The Government has also prohibited engagement of contract workers in the job of stone cutting in view of the permanency of the job. The earlier Congress Government refused to refer the dispute for adjudication. The concerned workmen had been working regularly in permanent and prohibited category of job under the direct control and supervision of the management. The union has asserted that it is absolutely unfortunate and lack of sense of responsibility to allege, as has been done by the management, that when the malpractice of inducting workmen through false dispute was exposed and the Government refused to make the reference, the union thereafter took the stand that the concerned workmen were stone cutters and coal cutters. It is pertinent to mention the comments submitted by the union before the A.L.C. (C) while raising the present industrial dispute.

6. The management, in support of its case, has examined two witnesses and laid in evidence a sheaf of documents which have been marked M-1 to M-5[1].

On the either hand, the sponsoring union has examined an equal number of witnesses and laid in evidence some documents which have been marked Exts. W-1 to W-1/2(a).

7. According to stands taken by the management in the present industrial dispute, there existed no relationship of employer and employee between the management and the concerned persons. In order to highlight this position the management has asserted that Budhan Nishad, a contractor, was awarded contract to drive an incline shaft No. 13 to 11 seam in the year 1983 and that the union explained before the A.L.C. (C) when the dispute was raised that the concerned persons had worked under the above contractor on the job of drivage of the incline. The management has further submitted that some persons whose names appearing in the list of workmen might have worked under the contractor, Budhan Nishad as temporary workmen to complete the temporary contractual job during the period and that the concerned persons have been trying to sneak into the employment by unfair means.

The case of the sponsoring union is that the concerned workmen had been working as underground stone cutters/coal cutters under the direct control and supervision of the management and that the implements for execution of jobs were being supplied by the management. It is alleged that the management has been disbursing wages through intermediary which were much below the wages as per N.C.W.As. Thus, the case of the management boils down to this that the concerned workmen have been trying to get into the employment on the basis of some imaginary or assumed names and that the union claimed before the A.L.C. (C) that the concerned workmen had worked under the contractor Budhan Nishad on job of drivage of incline. On the other hand, the case of the sponsoring union that the concerned workmen had been performing the job of stone cutters/coal cutters which are prohibited category of jobs in the Colliery as workmen of the management although the management had been disbursing their wages through intermediary. In otherwords, the management adopted the subterfuge of paying the concerned workmen wages through intermediary although they had been rendering service or producing goods for the benefits of the management.

8. At the instance of the union the relevant file from the office of A.L.C. (C) was called for and that was produced from the office of A.L.C. (C). It appears from the A.L.C. (C) file that the union raised the dispute before the A.L.C. (C) Dhanbad by application dated 22-12-83 and it was received in the office of the A.L.C. (C), Dhanbad on the same date. The application of the union before the A.L.C. (C) does not disclose that the concerned workmen were working under any contractor let alone Budhan Nishad, the contractor. As a matter of fact, the A.L.C. file does not indicate that the union at any stage represented before the A.L.C. (C) that the concerned workmen had worked under the contractor, named Budhan Nishad on the job of driving the incline as alleged by the management in its written statement. The statement of the management that the sponsoring union explained before the A.L.C. (C) that the concerned workmen had worked under the contractor, Budhan Nishad on the job

of driving the incline is not only at issue of falsehood but also reckless, careless and insinuating. It does not beavour will of a Government of India undertaking as the B.C.C.I. is to resort to such reckless statement without sparing any pain to verify facts.

9. Anyway, the case of the management is that in the year 1983, the management decided to drive an incline shaft from XIII to No. XI seam to a length of 250 feet only and awarded contract work to Budhan Nishad for driving the said incline vide work order dated 18-7-1983 and the contractor completed the work by 15-12-83. The management has produced some work orders, bills and forwarding letters with enclosure which have been marked Exts. M-1 to M-5/11. It appears from these documents that the first work order for drivage of incline shaft No. 2 from No. XIII to XI/XII seam of the Colliery in I-K Pit was awarded to Budhan Nishad on 10/20-7-1981 and not in 1983 as alleged by the management (Ext. M-1). The work orders envisage that the work was to be completed within three months from the date of receipt of the agreement and the contractor was to carry out the work as per instruction of the Colliery Agent/Manager or its representative. It appears from the bills submitted by the contractor that he started to work on 8-8-1981 and completed the same on 25-10-81 after getting an extension of time on 6-3-82 (Ext. M-3). Then again, close on the heels of completion of this contract another work order was issued to the same contractor on the same terms and conditions and on the same job on 12/26-11-82 (Ext. M-2). This contract, as per the bills, commenced on 12-11-82 and completed on 12-2-83 (Ext. M-3/6). Then again, as per the case of the management in para 3 of its written statement a contract was given to Budhan Nishad in the year 1983 for drivage of incline shaft from No. XIII to XI seam to a length of 250 feet by work order dated 18-7-83 and that this contract work was completed on 15-12-83. The work order for this contract has not been produced but the bills submitted by the contractor indicates that the contractual work commenced on 12-12-82 and was completed on 15-12-83 (Ext. M-3/9).

MW-1 Sri Sudhakar Pandey, as per his testimony, was posted to Phularitand Colliery of M/s. B.C.C. Ltd. from 1983 to 1985. It appears from the evidence of MW-2 K. P. Rawani that Sri Pandey was posted as Agent of Phularitand Colliery. Shri Pandey has stated that sometime in 1982 a contract was awarded to Budhan Nishad, a contractor for driving incline shaft from No. XIII to XI and XII Seam and in the process a work order was issued to the contractor. His evidence further discloses that since the contractor could not complete the work within three months from the date of issue of the work order the matter was stretched from February, 1983 to November, 1983. Shri Pandey was not posted to Phularitand Colliery before 1982 and his evidence has failed to disclose the exact factual position in the matter of awarding contractual work to the contractor. The documentary evidence that I have disclosed above and upon consideration of the pleadings of the management it has been irrefutably established that atleast three work orders, if not more, were awarded to Budhan Nishad, a contractor for driving incline shaft from No. XIII Seam to XI Seam and this contractual work commenced on 8-8-81 and was completed on 15-12-83 with intervening gap of a few months.

10. It is the firm case of the sponsoring union that consequent upon the management's paying wages to the concerned workmen through intermediary which was much below the rate prescribed by N.C.W.A. The union and the concerned workmen represented to the appropriate authority for taking action against the management and the L.E.O. (C), Baghmara, on the complaint of the union and the concerned workmen, inspected the Colliery, found the concerned workmen employed in prohibited category of job and seized the statutory documents of the management and immediately after the spot verification of L.E.O. (C), Baghmara, the management stopped the concerned workmen from duty with effect from 10-12-1983.

In answer to this statement of the union, the management has asserted that no document has been seized from the management and that the concerned workmen were not stopped from duty. MW-1 Sudhakar Pandey the then Agent of the Colliery, has also denied in his testimony that the

L.E.O. (C) seized any document including Form 'C' Registers. WW-2 R. N. Singh, Vice-President of the sponsoring union, has stated that the L.E.O. (C) seized the Form 'C' Registers. The question now comes up for consideration as to whether L.E.O. (C) had seized any document including Form 'C' Register as contended by the union and asserted by its witness or he did not seized any documents as contended by the management in its pleadings and asserted by its witness Shri Pandey. I have already pointed out before that A.L.C. file was produced before this Tribunal on requisition from the sponsoring union. The A.L.C. (C) file contains the report of the A.L.C. (C), Dhanbad to the Secretary to the Government of India, Ministry of Labour dated 11-5-1984 and this report indicates that the L.E.O. (C), Baghmara made a surplus visit in Phularitand Colliery and found the concerned workmen engaged in the job of stone cutting and seized three Form 'C' Registers. It was further reported that instead of co-operating and producing all available statutory records at the time of his inspection, the Colliery officials obstructed and misbehaved with him in performing his official duties. This report of the A.L.C. (C) gets support from the statement of MW-2 K. P. Rawani when he has stated that he heard that R. B. Sahay, L.E.O., (C) had a tiff with Sri Sudhakar Pandey, Agent of the Colliery. Anyway, the fact remains that the L.E.O. (C) seized three Form 'C' Registers from Phularitand Colliery, although the management tried to deny this fact. By such denial the management has again resorted to deliberate falsehood. These three Form 'C' Registers were sent alongwith A.L.C. (C) file and were admitted in evidence and as marked as Exts. W-1 to W-1/2.

It appears from the evidence of WW-2 R. N. Singh that since the management did not pay any heed to the representation made by him on behalf of the concerned workmen complaining against payment of less wages than the normal wages to them, he made a complaint to the L.E.O. (C) and the L.E.O. (C) fixed the date of inspection of the Colliery on 13-12-83 or 14-12-83. It appears from the representation dated 22-12-83 which is available in A.L.C. (C)'s file submitted by the sponsoring union to the L.E.O. (C) that inspection of the Colliery was held by the L.E.O. (C) on 14-12-83. It is the firm case of the union that the concerned workmen were stopped from employment by the management with effect from 19-12-83. It has been submitted by the management that consequent upon completion of contractual work, the contractor was not engaged. But this submission obviously does not whole ground if facts are analysed with probity. According to the pleading of the management, the contractual work was completed by 15-12-1983 and so there can be no reason for employment of the concerned workmen for three more days i.e. upto 18-12-83, even if it is conceded that they were employed through contractor. This being so, it is evident that the concerned workmen were stopped from duty close upon the heels of inspection of the Colliery by the L.E.O. (C), Baghmara.

11. Neither the sponsoring union nor the concerned workmen could produce letter of appointments, bonus cards etc. in support of their employment in the Colliery. Could they have done so, there would have no occasion to raise the present industrial dispute by the concerned workmen. Form 'B' Register and Identity Card Registers of Phularitand Colliery have not been produced by the management. MW-2 K. P. Rawani working in Barora Area Office of M/s. B.C.C. Ltd. has stated that it is the practice of M/s. B.C.C. Ltd. to record the names of each and every workmen working in M/s. B.C.C. Ltd. in Form 'B' Register and Identity Card Register and that each and every worker of M/s. B.C.C. Ltd. gets pay slip from the management. He has further stated that as per direction of higher management he checked up the Form 'B' Register and Identity Card Register of Phularitand Colliery and could not find the name of the concerned workmen in both these registers. The names of all concerned workmen are appearing in Form 'C' Registers (Exts. W-1 to W-1/2) available in A.L.C. file. The management has not claimed that these registers are the complete Form 'C' registers of the Colliery from 1981 to December, 1983. Anyway, the registers aforesaid disclose that all the concerned workmen were employed in the Colliery and that being so, their names should have appeared normally in Form 'B' Registers and Identity Card Registers. But as per

evidence of MW-2 K. P. Rawani these registers do not contain the names of the concerned workmen. It follows, therefore, that the management has not been maintaining the statutory registers properly. This is also the complaint of the union as made out in para 12 of its written statement. Hence, the inescapable conclusion is reached that the claim of the concerned workmen cannot be defeated simply because they could not produce letters of appointment and bonus cards in their favour and also for their names not appearing in Form 'B' Registers and Identity Card Registers. In regard to pay slips also the same position can be reached because the union has complained that the management had adopted subterfuge of paying wages to the concerned workmen through intermediary.

12. The case of the sponsoring union is that the concerned workmen had been working in incline mine of Phularitand Colliery as stone cutters/coal cutters since long and that they have been working in permanent and prohibited category of job under the direct control and supervision of the management and that the necessary implements for execution of the job were also supplied by the management. It is the further case of the union that the concerned workmen were stopped from duty with effect from 19-12-83 consequent upon inspection of the Colliery by the L.E.O. (C), Baghmara. The management has denied this contention. MW-1 Bramhdeo Yadav is one of the concerned workmen, his name appears at serial No. 14 of the annexure to the schedule of the reference. He has stated that he started working for Phularitand Colliery of M/s. B.C.C. Ltd. in 1981 as underground stone cutters and that he knows other concerned workmen who were also working in the said Colliery as underground stone cutters. It is his further testimony that the management stopped them from work with effect from 19-12-83 and that they worked in the Colliery continuously as underground stone cutters. Since they started working in the Colliery till the date of their stoppage from work they had worked continuously and in the process all of them had put in attendance for more than 190 days in every year. His testimony also reveals that the management used to provide them working implements for execution of job and that they used to work in each of the three shifts as deployed by the management. WW-2 R. N. Singh, Vice-President of the sponsoring union, has stated that all the concerned workmen were working in the pit of Phularitand Colliery as underground stone cutters and sometime in March, 1981 the concerned workmen complained to him that they had been getting wages less than the normal wages from the management. He has further stated that he took up the matter with the management but that being of no avail, he made a complaint to the L.E.O. (C) who visited the Colliery, seized Form 'C' Register and some days after the visit of the L.E.O. (C) all the concerned workmen were stopped from duty. Form 'C' Registers also disclose that almost all the concerned workmen had worked in underground mine of Phularitand Colliery as stone cutters and some as munshies of stone cutters. The work orders issued to the contractor reveal that the contractor was to carry out his work as per instruction of the Colliery Agent/Manager or his representative.

13. Stone cutting job is an integral part of the works of the establishment of the management. This is also a prohibited category of job in which employment of workmen through contractors is prohibited. MW-1 Sri Pandey has admitted that stone cutting job is a prohibited category of job. Prohibition of employment of contract labour on the job of stone cutting was made by the appropriate Government in consideration of the factor, amongst others, was that the job is of perennial nature. Admittedly, the concerned workmen were working in underground mine of the Colliery and so the place of work belongs to the establishment of the management. Stone cutting job is undertaken in underground mine in connection with the mining operation and so the job is required to be done for the purpose of the establishment of the management. The evidence as mentioned above indicates that the concerned workmen were broadly under the control of the establishment of the management. Considering all these facts I come to the conclusion that the concerned workmen were really the workmen of the management of the Colliery. Hence, there existed relationship of employer and employee between the management and the concerned workmen.

14. The management could not produce the licence of the contractor nor could it produce its certificate of registration of establishment for employment of contractual labour.

15. Upon consideration of evidence and materials on record, I come to the conclusion that the concerned workmen were really the workmen of the management of the Colliery and that they were stopped from work with effect from 19-12-83.

The demand of the sponsoring union is for reinstatement of the concerned workmen in service with back wages. The evidence as disclosed above establishes that the management stopped the concerned workmen from work with effect from 19-12-83 and since the concerned workmen were the workmen of the management, as I have already held, the action of the management in stopping them from work is not justified. In the circumstances, the concerned workmen are entitled to be reinstated in service and, in my view, with effect from the date of raising of the present dispute i.e. 22-12-1983 and back wages, less wages already paid, as available to stone cutters. Before concluding it is necessary, in consideration of evidence on record to correct the names of some of the concerned workmen which have been incorrectly written in the annexure. The evidence of WW-2 R. N. Singh discloses the following mistakes :

Sl. No.	Name appearing in annexure incorrectly.	Correct name
4.	Yadunandan	Yadunandan Gahlot
6.	Bijendu Prasad	Bijendar Prasad
11.	Biswanath Sarkar	Biswanath Karmakar
24.	Aditya Kumar Charterji	Aditya Kumar Chakraborty
27.	Ganesh Kumar Sarkar	Ganesh Kumar Karmakar
48.	Arjuna Ronia	Arjun Rawani
58.	Rani Dabiya Yadav	Ram Dahir Yadav
69.	Shanamlal Rajwar	Sohanlal Rajwar

Form 'C' Registers have also correctly recorded the name of the aforesaid concerned workmen. It is necessary, therefore, to correct the names of the workmen aforesaid in the award and a corrected annexure be added as part of the award.

16. Accordingly, the following award is rendered—

Action of the management of Phulartand Colliery of M/s. B.C.C. Ltd., PO, Navagarh, Dist. Dhanbad in stopping from employment the concerned workmen whose names are given in the Annexure to the award with effect from 19-12-1983 is not justified. The management is directed to reinstate them in service with effect from 22-12-1983 and to pay them back wages less wages already paid, as available to Stone Cutters as per N.C.W.As. within two months from the date of publication of the award. The concerned workmen are also directed to report for duty within the space of time prescribed above.

In the circumstances of the case, I award no cost.

S. K. MITRA, Presiding Officer

ANNEXURE

- Mandip Paswan
- Durga Paswan
- Kailash Ch. Mukherjee
- Yadunandan Gahlot
- Bijoy Chand Kumar
- Bijendar Prasad
- Sukdeo Yadav
- Balaram Samanta
- Ajit Kr. Pal
- Tarit Chatterjee
- Bishwanath Karmakar
- Anup Kr. Sarkar
- Triljogi Pandey
- Bharamdeo Yadav

- Subasis Samanta
- Kailash Yadav
- Ram Chandra Yadav
- Anugra Paswan
- Bhola Mahato
- Ramjan Mia
- Unish Ansari
- Akilash Singh
- Anil Kumar Das
- Aditya Kumar Chakraborty
- Ram Suresh Yadav
- Nandlal Singh
- Ganesh Kumar Karmakar
- Ramji Prasad
- Nanali Yadav
- Kishna Saw
- Bhim Sen Ram
- Rajarun Mahato
- Chandrika Prasad
- Ajodhya Prasad
- Ramnet Chobey
- Dusrath Bhuiya
- Jai Kumar Singh
- Biswajit Mukherjee
- Bindeshun Paswan
- Taran Paramanik
- Suresh Bhuiya
- Samu Chowdhury
- Indradeo Das
- Ram Ashra Paswan
- Suresh Ram
- Ram Ratan Singh
- Indradeo Yadav
- Arjun Rawani
- Satya Narayan Ghosal
- Samir Mukherjee
- Debi Prasad Mukherjee
- Sudagar Ram
- Sachida Nand Singh
- Sitaram Paswan
- Harlal Sao
- Ram Sarup Prajapati
- Raghu Nath Paul
- Ram Dahir Yadav
- Raj Mohan Singh
- Kanharla Singh
- Ram Ishwar Prasad Yadav
- Uday Kumar Sarkar
- Suresh Paswan
- Narayan Chandra Mukherjee
- Sanichar Yadav
- Rameswarup Malah
- Krishna Bhuiya
- Endra Deo Das
- Sohanlal Rajwar
- Churaman Rajwar.

S.:- Illegible
Presiding Officer

नई दिल्ली, 25 मार्च, 1992

का.प्र. 1002—औद्योगिक विवाद अधिनियम, 1947
(1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, ईस्ट बोकेरो कालरी आफ मेमर्ज टिस्को के प्रबन्ध-

तंत्र से संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, (नं.-1) धनबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को प्राप्त हुआ था।

[फाइल संख्या एल-20012/119/89-आई-आर (कोल-1)]

बी.के. वेणुगोपालन, डेस्क अधिकारी

New Delhi, the 25th March, 1992

S.O. 1002.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 1), Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the management of West Bokaro Colliery of M/s. TISCO and their workmen which was received by the Central Government.

[No. L-20012/119/89-IR(Coal-I)]

V. K. VENUGOPALAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. I, DHANBAD

In the matter of a reference under section 10(1)(d) of the Industrial Disputes Act, 1947.

Reference No. 8 of 1990.

PARTIES :

Employers in relation to the management of West Bokaro Colliery of M/s. Tata Iron & Steel Company Ltd., P.O. Ghatotand, District Hazaribagh.

AND

Their Workmen.

PRESENT :

Shri S. K. Mitra, Presiding Officer.

APPEARANCES :

For the Employers.—Shri B. Joshi, Advocate.

For the Workmen.—Shri J. P. Singh, Advocate.

STATE : Bihar.

INDUSTRY : Coal.

Dated, the 27th February, 1992.

AWARD

By Order No. L-20012/119/89-I.R.(Coal-I), dated, the 11th January, 1990, the Central Government in the Ministry of Labour, has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2-A) of section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal :

"Whether the actions of the management of West Bokaro Colliery of M/s. TISCO Ltd., P.O. Ghatotand, District Hazaribagh are justified in rejecting the claim of Nathuni Singh, C.C.M. 2nd Driver for the correction of his date of birth as initially recorded on 5-3-1951? If not, to what relief is the workman concerned entitled?"

2. The case of the management of West Bokaro Colliery of M/s. TISCO Ltd., Hazaribagh, as disclosed in the written statement-cum-rejoinder, details apart, is as follows :

The present reference is not legally maintainable. The present industrial dispute has been initiated by a Union which has no existence in the colliery and is not a recognised union. All the workmen of the colliery are members

of Rashtriya Colliery Mazdoor Sangh which is a recognised union. Nathuni Singh, the concerned workman, joined the service of the company on 5-3-51 as Coal Cutting Machine Helper at West Bokaro Colliery. He gave his declaration regarding his father's name, permanent address, date of birth, particulars of next of kin etc. on 5-3-51 before the then Welfare Officer and the details were entered in his service card. Thereafter the contents of the service card were read over and explained to him in Hindi by the Welfare Officer and he put his signature in token of his acceptance of the correctness of his declaration and the Welfare Officer also put his signature in token of the proof that he (the concerned workman) made his declaration before him and that the same were correctly recorded in his presence. He declared his date of birth as 1-7-29 on 5-3-51. The date of birth declared by him is conclusive proof of his age for determination of his date of his superannuation. In 1966 the recognised union represented before the management that some workmen committed mistakes at the time of declaration of their date of birth at the time of recording the particulars in their respective service cards and requested the management for correction of mistakes. The management issued individual notices to all the workmen asking them to accept the date of birth recorded in the service card as correct or to declare the same to be incorrect and subject themselves to the procedure to be followed for determination of date of birth by the committees on the basis of authentic documents and/or medical examinations. The concerned workman was also issued one notice dated 18-3-66. He did not file any application indicating any mistake in his date of birth as recorded in the service card. The workmen of the colliery were given another opportunity in the year 1977 to submit application for correction of the date of birth. The concerned workman did not submit any application requesting for correction of his date of birth. In 1980 the management issued a circular inviting applications from workmen who claimed to have declared the date of birth by mistake and wanted to get their date of birth as recorded in their respective service cards corrected. In pursuance of this circular the concerned workman submitted application dated 18-8-80 for correction of his date of birth on the basis of purported school leaving certificate which he wanted to produce later on. He was advised to appear before the Age Correction Committee formed for the purpose comprising representatives of the recognised union and the management. He appeared before the said Committee on 22-12-80. The Age Correction Committee did not accept the document purported to be school leaving certificate of the concerned workman and did not recommend for correction of date of birth as appearing in the service card. Thus his original declaration of his date of birth remained final and conclusive. He was informed by letter dated 23-12-80 issued by C.P.M. and letter dated 25-1-81 issued by A.D.M. of the colliery that the date of his birth as recorded in the service card was final and no correction was necessary. He declared his date of birth on 5-3-51 as 1-7-29. He is bound by his own declaration. In the circumstances, the management has submitted that its action in rejecting the claim of the concerned workman for correction of his date of birth as initially recorded on 5-3-51 is justified.

3. The case of the concerned workman, as disclosed in the written statement submitted on his behalf by the sponsoring union, Indian National Coal Mines Engineering Workers' Association, Hazaribagh, details apart, is as follows :

He was employed by the management with effect from 5-3-51 as C.C.M. Helper, and at the time of raising the present dispute, he was working as C.C.M. 2nd Driver. At the time of his appointment his date of birth as recorded in the Service Card of the company was 1-7-1929. He did not make any declaration of age before the management at the time of his appointment, and no documentary evidence in respect of his date of birth was demanded from him. He had no idea that his date of birth was recorded as 1-7-1929. During conciliation proceeding in respect of the present dispute the management took the plea that in the year 1966 the management gave opportunity to all employees of West Bokaro Colliery for correction of their date of birth. Then again, it was stated that in the year 1977, on the request of the recognised union, namely,

Rashtriya Colliery Mazdoor Sangh, the employees were again given opportunity for correction of age recorded in the Service Card by producing valid documentary proof of age. But since the concerned workman did not know the wrong entry made in the service record in regard to his date of birth, he did not file any application for correction of his age and so no adverse inference can be drawn from it. In 1980, the management, on the request of the union, afforded last opportunity to the employees to file documentary proof of age if the employee felt that the date of birth mentioned in the service record was not correct. The concerned workman by then came to know that his date of birth was recorded as 1-7-29 in the service record. He read upto Lower Primary Standard, Champur, P.S. Nabunagar, District Gaya. He was admitted in that school on 2-2-33 and left the school on 31-12-40 for the purpose of higher study. His date of birth was recorded as 2-2-33 in the certificate. School Leaving Certificate was issued by the Head Master, Shri Muneshwar Singh. Anyway, he was called by the Committee formed for correction of age and on perusal of School Leaving Certificate the Committee was satisfied about the genuineness of the certificate and assured him that his recorded date of birth would be corrected accordingly. He did not get intimation for a long time about correction of his date of birth, but was subsequently informed that his prayer for correction of age was rejected. He filed representation to the management, but to no effect. Thereafter he was constrained to raise the present industrial dispute. The management cannot take shelter under the plea that the original record of age was on the basis of declaration of age by the concerned workman because opportunities were given to the employees for correction of age in the year 1966 and 1977 which were not availed of by the concerned workman. The mere fact that such opportunities were given at the instance of the Rashtriya Colliery Mazdoor Sangh would go to show that in respect of a large number of old workers of the colliery the record of age made by the company was faulty and not made on the basis of documentary evidence. The fact that in 1980 another opportunity was given to the employees for getting their age corrected by documentary proof of age would go to show that there was still a large number of cases for correction of age pending and this opportunity was availed of by the concerned workman by producing his school leaving certificate. The management in ordinary course should have accepted the documentary proof of age instead of turning down the prayer made by the concerned workman.

4. In rejoinder to the written statement of the sponsoring union, the management has denied and disputed the statement of facts made therein and asserted that it is incorrect to suggest that the documentary evidence was not demanded from the concerned workman in proof of his age at the time of entry into service. As he was not having any documentary evidence he did not produce any evidence in support of his declaration. As per his own declaration his date of birth as 1-7-29 and he was issued with an Identity Card containing all particulars including his date of birth as recorded in the service card. He was fully aware, as per his own declaration that his date of birth was recorded in all documents as 1-7-29. The management has denied that the Age Correction Committee assured him to get his date of birth corrected according to his so called school leaving certificate. The Committee was not satisfied about the genuineness of the School Leaving Certificate. He was informed within short time of the decision of the Age Correction Committee to the effect that no correction was needed in his recorded date of birth.

5. The management, in order to justify its action, has examined only one witness, namely, MW-1 H. K. Akhouri and laid in evidence a number of documents which have been marked Exts. M-1 to M-14.

On the other hand, the concerned workman has examined WW-1 Ram Narayan Singh, Mukhiya of Chainpur Gram Panchayat and himself as WW-2 and laid in evidence some documents which have been marked Exts. W-1 to W-3.

6. It is an irrefragable position that Nathuni Singh, the concerned workman, joined the service of West Bokaro Colliery of M/s. TISCO as C.C.M. Helper on 5-3-51. At the time when the present industrial dispute was raised he was working as C.C.M. 2nd Driver.

7. According to the case of the management, the concerned workman made declaration regarding his father's name permanent address, date of birth, particulars of next kin etc. at the time of his entry in the service before the then Welfare Officer and such details were entered in his Service Card and that he declared his date of birth as 1-7-29. It is the further case of the management that the contents of the service card were read over and explained to him in Hindi by the then Welfare Officer and the concerned workman put his signature thereon in token of his having accepted the correctness of his declaration and the Welfare Officer put his signature in proof of the fact that the concerned workman declared his age before him. According to the case of the concerned workman he did not make any declaration of age at the time of appointment before the management and no documentary evidence in respect of his age was demanded from him and so he had no idea that his date of birth was recorded as 1-7-29.

The management has produced the service card of the concerned workman which contains his particulars such as, father's name, home address, particulars of next kin etc. (Ext. M-2). This card further disclosed that his date of birth was recorded as 1-7-29, his date of appointment as 5-3-51 and it was signed by him and the then Welfare Officer (Ext. M-12). The management has also produced Form 'B' Register (Ext. M-1) which discloses his father's name, designation as C.C.M. Helper, home address, date of appointment as 5-3-51 and date of birth as 1-7-29. Upon perusal of these two documents it is obvious that the particulars of the concerned workman, such as, his father's name, home address, date of appointment and date of birth are similar and there exists no discrepancy in these documents. Anyway, it is the case of the concerned workman that he did not disclose his date of birth at the time of his appointment and that he did not produce any document in support of his age as that was not demanded from it.

The concerned workman has stated in his testimony in examination-in-chief that nobody enquired of him at the time of his entry in service about the date of his birth. He has further stated that Form 'B' register is maintained in English in West Bokaro Colliery and that he does not know English. In cross-examination, he has been constrained to admit that he disclosed the name of his father's name and the name of his native village at the time of his entry in the service. This being so, his testimony indicates that he did not disclose his date of birth at the time of his entry in the service. Even so, he had admitted that he disclosed the name of his father and the name of his native village at the time of his entry in the service. Not only so, the service card indicates that he also disclosed the name of his next kin at the time of his entry in the service. It is really inexplicable as to why the management should not enquire of him as to his date of birth when it enquired of him his other particulars in order to complete service card and Form 'B' Register. The management had no animosity against him so as to fill in the columns of age as per its own choice. It is the firm case of the management that he disclosed all his necessary particulars including his date of birth before the then Welfare Officer and that the concerned workman put his signature in the service card in token of his having accepted the declaration made therein and the Welfare Officer put his signature in token of the proof of the fact that the concerned workman made the declaration in his presence. This has been disclosed by the management in Paragraph 3 of its written statement. The concerned workman has not disputed this statement of fact by way of any rejoinder. Hence, upon consideration of evidence on record and the pleadings of the parties, I come to inescapable conclusion that the concerned workman declared his date of birth as 1-7-29 at the time of his entry in service on 5-3-51 as C.C.M. Helper.

8. It appears from the pleadings of the parties as well as from the evidence on record that the management offered the workman of the colliery opportunities to have their date of birth corrected by representation in 1966, 1977 and 1980 at the instance of the sponsoring union, Rashtriya Colliery Mazdoor Sangh. It appears that the concerned workman did not avail himself of the opportunity in 1966 and 1977. According to the case of the concerned workman, he did not do so as he was not aware of the date of birth as recorded

in the records of the management. The management issued him a notice (Ext. M-2) on 18-3-60 intimating that his date of birth as per service card maintained by the management and as per C.M.P.I. record was 1-7-29. As per this notice he was called upon to submit documentary evidence in support of his date of birth in case he did not accept the date of birth as mentioned in the record. The concerned workman did not disclaim to have received this notice. Another notice dated 12/23-4-77 regarding correction of date of birth was issued by the management (Ext. M-3). As per this notice the management decided to give one more chance to the existing employees on the request of the union to have their date of birth corrected, if it was felt that the same was wrongly recorded in the company's record (Ext. M-3). There is no evidence on record to indicate that this notice escaped the attention of the concerned workman. Hence, the plea of the concerned workman that he did not know the date of birth as recorded in the records of the company is not sustainable.

9. Again on 7-7-80 the management, at the request of the recognised union, condescended to give one more chance to those employees who could not apply for rectification of their date of birth when the last chance was given in 1977 by a notice (Ext. M-4). The concerned workman applied this time but he did not enclose with his application his School Leaving Certificate (Ext. M-6). The management constituted a Committee on the matter of correction of date of birth and the Committee was called upon to submit its recommendation within next two months from the date of the order passed on 8-11-90 (Ext. M-5). It is the admitted case that the concerned workman appeared before the Committee, produced his school leaving certificate (Ext. W-1), but the Committee did not accept his certificate. This certificate records his date of birth as 2-2-33. MW-1 H. K. Akhouri, presently posted as Dy. Director (Personnel), M/s. TISCO, Jamshedpur, was posted to West Bokaro Colliery of M/s. TISCO from 1980 to March, 1990 in different capacities. He has stated that he a Member-Secretary of the Age Correction Committee and that the concerned workman did not enclose his school leaving certificate alongwith his application. His evidence further discloses that the concerned workman appeared before the Age Correction Committee and that the Committee interviewed him, but the school leaving certificate produced by him was not accepted by the Committee as it had no supportive documents and also of the fact that he did not produce it at the time of his entry in service or in 1966 or in 1977. He has also stated that the concerned workman could not explain the circumstances under which he committed the mistake of having recorded his date of birth as 1-7-29, in Form 'B' Register and Service Card and that no discrepancy or inconsistency was noticed with regard to his date of birth in any document as referred to in the circular of J.B.C.C.I. The concerned workman has taken the position that he did not produce his school leaving certificate as that was not demanded of him. It is his duty to produce his school leaving certificate in order to have his date of birth correctly recorded and it is not the duty of the management to call for such certificate from him. He could have produced the Admission Register of the school in order to prove correctness of the date of his birth as recorded in the certificate. WW-1 R. N. Singh has introduced him as Mukhiya of Chainpur Gram Panchayat. He has admitted that Admission Register is maintained in school but in the instant case Admission Register is not available as it is an old record. He is not a man connected with the school in question and hence he has got no competency to vouch for the fact whether the Admission Register is available in the school or not. He has proved a certificate given by the local Mukhiya regarding the date of birth of the concerned workman which has been marked Ext. W-2. The date of birth of the concerned workman as per the certificate was 2-2-33. But the certificate is of little help to the concerned workman as the foundation on the basis of which the certificate was issued has not been established. The concerned workman has produced a horoscope which has been marked Ext. W-3. This horoscope has not been proved by the maker thereof, even so, the horoscope appears to have disclosed the date of birth of the issue as 2-2-37. There is no evidence on record to indicate that the concerned workman was a new born issue in respect of whom this horoscope was prepared.

The concerned workman has stated that he obtained transfer certificate (Ext. W-1) way back in 1940. This being so, it has remained inexplicable as to why he did not produce the certificate at the time of his entry in the service or in 1966 or in 1977 when the first and second notices were issued by the management calling upon the workmen to produce documentary evidence in support of their date of birth for correction of their age. That apart, basic document i.e. Admission Register on the strength of which the certificate was issued has not been produced. Hence, in my view, the management was justified in not putting any reliance upon this certificate.

The concerned workman has stated that the Age Correction Board condescended to accept the certificate. In his written statement he has stated that the Committee assured him that his recorded date of birth would be corrected. This has been totally denied by the management in its rejoinder to the written statement of the sponsoring union. The plea that the Committee assured him of correction of his date of birth is travesty of fact because the management almost immediately after the receipt of the report of the Committee dated 22-12-80 (M-7) informed him that the Committee did not find any merit in his case by letter dated 27-1-81 (Ext. M-8). He was informed by letter dated 23-10-81 that the Committee, after scrutinising his case, has decided to maintain his date of birth as recorded in the Service Card i.e. 1-7-1929 (Ext. M-9).

The circular issued by J.B.C.C.I. (Ext. M-3) envisages review/determination of date of birth in respect of existing employees under certain circumstances, one of such circumstance is variation in the record regarding the date of birth of any employee. But no such variation is noticed to the present case and hence the case of the concerned workman does not come within the purview of the circular.

9. Considering all the facts and circumstances, I am constrained to hold that the management was justified in rejecting the claim of the concerned workman for correction of date of his birth as initially recorded on 5-3-51.

10. Accordingly, the following award is rendered the action of the management of West Bokaro Colliery of M/s. TISCO Ltd., P.O. Ghatotand Dist. Hazaribagh, in rejecting the claim of the concerned workman for correction of date of birth as initially recorded on 5-3-51 is justified.

In the circumstances of the case, I award no cost.

Sd/-

S. K. MITRA, Presiding Officer.

नई दिल्ली, 25 मार्च, 1992

का.आ. 1003.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, अंगरथरा कालरी आफ मैसर्ज भारत कॉकिंग कोल लिमिटेड कटरास एरिया के प्रबन्धतंत्र से संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, (नं. 2) धनवाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को प्राप्त हुआ था।

[फाइल संख्या एन-24012/73/86-डी-4 (बी)]

बी.के. वेणुगोपालन, डेस्क अधिकारी

New Delhi, the 25th March, 1992

S.O. 1003.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 2), Dhanbad as shown in the

Annexure in the industrial dispute between the employers in relation to the management of Angarpathra Colliery of M/s. Bharat Coking Coal Ltd., Katras Area and their workmen which was received by the Central Government.

[No. L-24012(73)/86-D. IV(B)]

V. K. VENUGOPALAN, Desk Officer.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT :

Shri B. Ram, Presiding Officer.

In the matter of an industrial dispute under Section 10(1)(d) of the I. D. Act, 1947.

REFERENCE NO. 37 OF 1987

PARTIES :

Employers in relation to the management of Angarpathra Colliery of M/s. Bharat Coking Coal Ltd., Katras Area and their workmen.

APPEARANCES :

On behalf of the workmen : Shri Sreegovind Singh, Secretary, Koyala Ispat Mazdoor Panchayat.

On behalf of the employers : Shri B. Joshi, Advocate.

STATE : Bihar.

INDUSTRY : Coal

Dhanbad, the 24th February, 1992

AWARD

The Government of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I. D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-24012(73)/86-D. IV(B), dated, the 31st December, 1986.

THE SCHEDULE

"Whether the action of the Management of Angarpathra Colliery of M/s. Bharat Coking Coal Limited, Katras Area in dismissing Shri Jitan Manjhi, a permanent Miner/Loader with effect from 25-4-1985 is justified? If not, to what relief the workman concerned is entitled?"

2. In this case both the parties appeared and filed a Memorandum of settlement under their signature. I heard both the parties on the said settlement and I do find that the terms contained therein are fair, proper and beneficial to both of them. Accordingly I accept the said memorandum of settlement and pass an Award in terms thereof which forms part of the Award as Annexure.

B. RAM, Presiding Officer.

ANNEXURE

FORM 'H'

MEMORANDUM OF SETTLEMENT (RULE 58 OF I. D. ACT, 1957)

NAME OF THE PARTIES

REPRESENTING MANAGEMENT :

1. Shri V. P. Gupta, General Manager (Actg.), Katras Area.
2. Shri K. N. Gupta, Personnel Manager, Katras Area.

REPRESENTING WORKMAN :

1. Shri Shreegovind Singh, Secretary, KIMP.
2. Shri No. 2 Jitan Manjhi, Concerned workman.

SHORT RECITAL OF THE CASE :

Sl. No. 2 Jitan Manjhi was employed as Miner/loader at Angarpathra colliery at Katras Area. He absented from duty from 1-4-1985 to (habitual) without any information

to or taking permission from the management. He was issued charge sheet by the management vide letter No. AP/CS/85/75, dated 5-4-1985 for unauthorised absence from duty. After proper enquiry into the chargesheet Sl. No. 2 Jitan Manjhi was dismissed vide letter No. AP/Dismissal/85/945, dated 25-4-1985 with approval of the competent authority after the charge of absenteeism were fully established.

On 26-4-1986, in the meeting of Central Consultative Committee at corporate level of BCCL it was decided that those miner/loaders who were dismissed on the charge of absenteeism on or after 1-1-1983 would be re-employed as Miner/loader provided they are found medically fit.

In view of the above decision Shri Shreegovind Singh, Sec. KIMP represented the case of Sl. No. 2 Jitan Manjhi for re-employment. After discussion with the said union official the management agreed to re-employ Sl. No. 2 Jitan Manjhi on the following terms and conditions.

TERMS OF SETTLEMENT :

1. Sl. No. 2 Jitan Manjhi would be sent to Area Medical Board for finding out regarding physical fitness for the job of Miner/loader after the dismissed workman reports with I. D. card.
2. That after Sl. No. 2 Jitan Manjhi is found medically fit to carry out the job of Miner/loader he would be re-employed within 7 days of the date of medical examination.
3. That Sl. No. 2 Jitan Manjhi shall not be entitled for any wages or monetary benefits, whatsoever, for the period he remained idle due to dismissal.
4. That Sl. No. 2 Jitan Manjhi shall be deemed to be in employment from the date he actually joins after this settlement and he shall not be entitled for granting etc. for the past period of his service in BCCL and there shall be no continuity of service for the purpose of gratuity.
5. That this would settle all the disputes raised by the union or the workman at any level, whether at conciliation or at adjudication level or at management level fully and finally and the union shall not raise any dispute in this regard hereinafter.
6. That this settlement shall be registered under Rule 58 of the I. D. Act, 1957 and copies shall be sent to all concerned government authorities.

SIGNATURE OF PARTIES

MANAGEMENT :

Sd./-

1. Shri V. P. Gupta,
General Manager (Actg.),
Katras Area.

Sd./-

2. Shri K. N. Gupta,
Personnel Manager,
Katras Area.

Witness :-

Sd./-

1.

Sd./-

2.

Dated : 7-7-1986.

UNION/WORKMAN

Sd./-

1. Shri Shreegovind Singh,
Secretary, KIMP
2. Sri No. 2 Jitan Manjhi,
concerned workman.

नई दिल्ली, 25 मार्च, 1992

का.आ.1004.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्वय में, केन्द्रीय सरकार, शामपुर 'ए' कोलरी आफ मैसर्स ईस्टर्न कोलफील्ड्स लिमिटेड के प्रबन्धन से संबद्ध नियोजकों और उनके कर्म-कारों के बीच, अन्वय में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, (नं.-2) धनबाद के पंचाद को प्रकाशित करनी है, जो केन्द्रीय सरकार को प्राप्त हुआ था।

[फाइल संख्या एन:-20025 (9)/85-डी-III (ए)]

श्री.के. वेणुगोपालन, डेस्क अधिकारी

New Delhi, the 25th March, 1992

S.O. 1004.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 2), Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the management of Shampur 'A' Colliery of M/s. Eastern Coalfields Limited and their workmen which was received by the Central Government.

[No. L-20025(9)/85-D.III(A)]

V. K. VENUGOPALAN, Desk Officer.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT:

Shri B. Ram, Presiding Officer.

In the matter of an industrial dispute under Section 10(1)(d) of the I.D. Act, 1947

Reference No. 310 of 1986

PARTIES:

Employers in relation to the management of Shampur 'A' Colliery of M/s. Eastern Coalfields Limited and their workmen.

APPEARANCES:

On behalf of the workmen—Shri D. Mukherjee, Secretary, Bihar Colliery Kamgar Union.

On behalf of the employers—Shri R. S. Murthy, Advocate.

STATE : Bihar.

INDUSTRY : Coal.

Dated, Dhanbad, the 27th February, 1992

AWARD

The Government of India, Ministry of Labour and Rehabilitation in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 had referred the following dispute to the Central Government Industrial Tribunal No. 1, Dhanbad vide their Order No. L-20012(299)/83-D.III(A) dated, the 19th October, 1984. Subsequently vide Ministry's Order No. 20025(9)/885-D.III(A) dated 18th August, 1986 the said reference has been transferred to this Tribunal from Central Government Industrial Tribunal No. 1, Dhanbad.

SCHEDULE

“Whether the demand of Bihar Colliery Kamgar Union that Shri J. P. Singhanian, Cashier, Shampur 'A' Colliery of M/s. Eastern Coalfields Limited, who was dismissed from service by the management from 3-8-1982 for alleged defalcation of the man-

agement's money, should be reinstated in service keeping in view of his acquittal by the Judicial Magistrate First Class, Dhanbad on 20-2-1984, is justified? If so, to what relief is the said workman entitled and from what date?”

2. Shri J. P. Singhanian, admittedly cashier of Shampur 'A' Colliery of M/s. E.C.L. was dismissed from the services by the management from 3-8-82 on the ground that he defalcated/embazzled the management's money to the tune of Rs. 20,000 by making fictitious entry in the Cash Book without making any payment and the said act amounted to misconduct under clause 17(I)(a) of the Model Standing Orders.

3. A chargesheet dated 12-6-81 was issued calling upon to show cause as to why the disciplinary action should not be taken against him (Ext. M-1). He was simultaneously put under suspension. The concerned workman submitted his explanation Ext. M-2 which, however, was found not satisfactory giving rise to domestic enquiry. After domestic enquiry he was dismissed with effect from 3-8-82 (Ext. M-7). On the order of dismissal the Bihar Colliery Kamgar Union has demanded reinstatement of the concerned workman with full back wages on the grounds mentioned in the W.S. of the concerned workman.

4. According to the W.S. of the workman the concerned workman had handed over a sum of Rs. 1,10,000 to Shri Indel Maharaj, Pay Clerk on 31-1-81 through five different vouchers each amount to Rs. 20,000 and as 6th voucher of Rs. 10,000 for its disbursement to the workmen of the colliery. Shri Singhanian had also handed over Rs. 20,000 to Shri Ashok Kumar Choudhury, Pay Clerk through voucher No. 4799. On 1-2-81 all the aforesaid vouchers had been taken to the Agent for his verification and signature on the Cash Book. The Agent was stated to have verified the aforesaid vouchers and had signed the Cash Book.

5. On 3-2-81 Indel Maharaj demanded Rs. 20,000 from the concerned workman for disbursement to which he replied that he had already received all the amount. It is stated that Indel Maharaj refused to have received the amount as stated by him (the concerned workman). Indel Maharaj also insisted upon for showing the relevant vouchers. However, after thorough search two vouchers bearing No. 4806 and 4799 each for Rs. 20,000 dated 31-1-81 were found missing. It is further stated that Shri Ashok Kumar Choudhury, the Pay Clerk had expected to have received Rs. 20,000 through voucher No. 4799 and he also issued duplicate voucher to the concerned workmen. However, Indel Maharaj refused to have received Rs. 20,000 through voucher No. 4806. The concerned workman Shri J. P. Singhanian immediately informed the management about the matter giving rise to preliminary enquiry through fact finding committee consisting of Shri A. K. Verma, Personnel Officer, Shri S. N. Singh, Welfare Officer and Shri Srinivasa, Accounts Officer. According to Indel Maharaj he had received Rs. 90,000 only from the concerned workman as an advance for disbursement to the workmen on 31-1-81. However, the fact finding committee enquired into and matter and found that the sum of Rs. 1,04,000 was disbursed by Indel Maharaj and the balance of Rs. 6,000 was recovered from his possession.

6. It also appears that a criminal case was instituted against the concerned workman which ultimately ended in acquittal. The concerned workman after his acquittal requested the management for his reinstatement but it was of no use and ultimately he had to raise industrial dispute before the ALC (C), Dhanbad which ended in failure giving rise to the present reference. It is stated that the action of the management in dismissing the concerned workman with effect from 3-8-82 was illegal, arbitrary, unjustified and against the principles of natural justice and accordingly it has been prayed that the reference be answered in favour of the workman.

7. The management has filed separate W.S. alleging that the concerned workman failed to account for an amount of Rs. 20,000 and he apparently defalcated the company's

amount by making fictitious entry in the Cash Book. The matter was enquired into in the domestic enquiry and the charges against him were proved and he was dismissed. It was submitted that there was no legal proposition to the effect that because a workman subsequently acquitted by criminal court cannot be departmentally proceeded against. The management has thus prayed that the concerned workman was legally dismissed and he does not deserve to be reinstated.

8. The point for consideration is whether the concerned workman defalcated/embezzled the amount of Rs. 20,000 and his dismissal by the management was justified or not?

9. The domestic enquiry conducted against him has been held to be unfair and against the principles of natural justice vide order dated 14-9-89 and so naturally the management has adduced oral evidence to prove the charge against the concerned workman.

10. The main thrust of allegation as disclosed from the chargesheet was that the concerned workman working as Cashier of Shampur 'A' Colliery has shown in the Cash Book a payment of Rs. 20,000 to Shri Indel Maharaj, the Pay Clerk under voucher No. 4806 dated 31-1-81 for payment to the workers of the colliery but the Pay Clerk denied to have received the amount. The concerned workman could not file the voucher showing payment to Indel Maharaj. As stated earlier only voucher No. 4806 is in question and other payment through voucher No. 4799 has already been accepted by Shri A. K. Choudhary, another Pay Clerk. We find that the concerned workman has exhibited his bonafide intention when he immediately informed authority about the missing voucher giving rise to the preliminary enquiry consisting of three officials. The report dated 6-3-81 of the enquiry committee forms part of the record. The relevant portion of the report may be illustrated as follows :—

"The committee feels that on 31-1-81 a payment of Rs. 1,04,661.00 was disbursed but the pay clerk received only Rs. 90,000 on that day i.e. he has paid about Rs. 14,661.00 in excess of the amount received by him from the cashier."

Thus from the enquiry report it was clear that Shri Indel Maharaj disbursed a sum of Rs. 1,04,661 on 31-1-81 when he claims to have Rs. 90,000. Shri Maharaj in his evidence stated that on 31-1-81 he had received only Rs. 90,000. This means he disbursed about Rs. 14,000 excess amount. The question is why and from where he got this excess amount for disbursement. The report further shows that about Rs. 6,000 and odd was found undisbursed. The management has not explained this position. Shri Maharaj is not expected to disburse the aforesaid amount of Rs. 14,000 from his own pocket. There is nothing to show that he had received the amount from any other sources. In this way all these things remain unexplained. In para-23 of the W.S. the management stated that in the regular domestic enquiry it was found that the preliminary enquiry committee made some miscalculation. In the situation it was for the management alone to make the position clear by examining one of the members of the Enquiry Committee and specially when the domestic enquiry has been held to be unfair and against the principles of natural justice. In this way we find that the enquiry committee submitted the report which was quite favourable to the concerned workman and his involvement for defalcation of the amount has been negatived. Now let us examine the witness examined on behalf of the management. MW-1 and WW-1 had been examined to speak about the domestic enquiry conducted by the management. As regards the merit of the case three more witnesses were examined by the witness. MW-3 is Shri Indel Maharaj. Admittedly on 31-1-81 he had made payment to the workers. He has explained the procedure. According to him they used to get the amount from the cashier in instalment for its disbursement to the workmen. On 31-1-81 he stated to have received Rs. 90,000 only. He has denied that Shri Singhania had given him Rs. 1,10,000 on 31-1-81. However, we find that this aspect of the matter was examined by the preliminary enquiry committee consisting of the management's officers and they had found that Shri Indel Maharaj had disbursed 1,04,000 odd money to workers. In cross-examine he stated to have taken payment twice from S. K. Ghosh on 31-1-81 for payment to the

workers. But this aspect of the matter has not been fully corroborated by Shri S. K. Ghosh MW-2. According to him in absence of the concerned workman he had made payment of Rs. 50,000 from the iron safe to the pay clerk. He further stated that the amount was paid in three instalment to Shri Indel Maharaj alone. This divergent statement of two instalment or three instalment has got tendency to speak something about the fishery affairs. Shri S. K. Ghosh has stated that he was an Asstt. Cashier and Shri Singhania had given him the key of the iron safe alone on 31-1-81 because he had gone to bring cash from the Area Office. According to him the Cashier had given the only charge of key but in the next breadth he admitted to have made payment to the Pay Clerk in absence of Shri Singhania, the concerned workman. This means in absence of the concerned workman he was the man to handle the cash and the vouchers etc. kept in the iron safe. In the circumstances, the concerned workman alone cannot be held responsible for missing of the voucher. Again the witness stated that he had carried all the voucher to the Agent Office for signature of the Agent on 1-2-81 and it was also signed by the Agent Shri S. C. Mallick. He had also carried Cash Book and that too was also countersigned by the Agent. The very counter signature of the Agent will lead to an inference that he had verified the entry in cash book with the relevant vouchers and then had put his signature.

10. MW-4 Shri R. K. Mandal was working as Accounts Clerk. He stated that Shri Singhania used to go to the Area Office to bring the cash and he also used to hand over the almirah to Shri S. K. Ghosh. He lastly stated that in absence of Shri Singhania Shri Ghosh also used to take out money from the almirah and given to the Pay Clerk for disbursement.

11. I have considered all the matters available on the record particularly in view of the report submitted by the preliminary enquiry committee. I find that no defalcation or embezzlement of the company's money has been satisfactorily proved against the concerned workman. As regards the legal position the learned counsel for the workmen conceded that there was no embargo that a workman cannot be departmentally proceeded against when he has already been found not guilty of the criminal case. Be that as it may from the discussions made above I find that the concerned workman cannot be held responsible for missing of the voucher in custody. He had given key to his Assistant and the money was taken out by Shri Ghosh to Pay Clerks. So it is very difficult to say as to what particular time the voucher got missed.

12. From the record I further find that the concerned workman died during the pendency of this reference and the Order sheet dated 10-9-91 will show that a petition to this effect had also been filed requesting the Tribunal for substitution of Smt. Urmila Devi wife of the concerned workman. Shrimati Urmila Devi was accordingly substituted. For the reasons stated above I am to hold that the concerned workman was not guilty of any embezzlement and he deserved to be reinstated in his service with full back wages but since he had already died the management may take a compassionate view of the matter and give employment to his dependent son as per rules and procedure. The management will pay all the back wages and the other consequential benefits to Smt. Urmila Devi wife of late J. P. Singhania, the concerned workman from the date of his dismissal to the date of his expiry within one month from the date of publication of the Award.

An Award is passed accordingly.

B. RAM, Presiding Officer

नई दिल्ली, 27 मार्च, 1992

का.आ. 1005.—केन्द्रीय सरकार ने यह समाधान हो जाने पर कि लोकहित में ऐसा करना गोष्ठित था, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खंड (क) के उपखंड (6) के उपबंधों के अनुसरण में

भारत सरकार के श्रम मंत्रालय की अधिसूचना संख्या की. आ. 2736 दिनांक 9 अक्टूबर, 1991 द्वारा भारतीय खाद्य निगम सेवा को उक्त अधिनियम के प्रयोजनों के लिए 9 अक्टूबर, 1991 से छह मास की कालावधि के लिए लोक उपयोगी सेवा घोषित किया था।

और केन्द्रीय सरकार की राय है कि लोकहित में उक्त कालावधि को छह मास की और कालावधि के लिए बढ़ाया जाना अपेक्षित है।

अतः अब, औद्योगिक विवाद, 1947 (1947 का 14) की धारा 2 के खंड (ढ़) के उपखंड (VI) के परन्तुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार उक्त उद्योग को उक्त अधिनियम के प्रयोजनों के लिए 9 अप्रैल, 1992 से छह मास की और कालावधि के लिए लोक उपयोगी सेवा घोषित करती है।

[संख्या एस-11017/5/91—पालिसी विधायी]

एम.एस. पराशर, अवर सचिव

New Delhi, the 27th March, 1992

S.O. 1005.—Whereas the Central Government having been satisfied that the public interest so required had in pursuance of the provision of sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947), declared by the notification of the Government of India in the Ministry of Labour S.O. No. 2736 dated the 9th October, 1991, the services in the Food Corporation of India to be a public utility service for the purposes of the said Act, for a period of six months from the 9th October, 1991;

And, whereas, the Central Government is of the opinion that the public interest requires the extension of the said period by a further period of six months;

Now, therefore, in exercise of the powers conferred by the proviso to sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby declares the said industry to be a public utility service for the purpose of the said Act, for a further period of six months from the 9th April, 1992.

[No. S-11017/5/91-I.R.(PL)]

S. S. PRASHER, Under Secy.

नई दिल्ली, 27 मार्च, 1992

का.मा. 1006.—सिने कर्मकार कल्याण निधि नियमावली, 1984 के साथ पठित सिने कर्मकार कल्याण निधि अधिनियम, 1981 (1981 का 33) के खण्ड 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार इसके द्वारा निम्नलिखित व्यक्तियों को इस अधिसूचना के जारी 740 GI/92—9

होने की तारीख से केरल राज्य के सिने सहाकार समिति में नियुक्त करती है।

- | | |
|--|---------------------------------|
| 1. श्रम मंत्री,
केरल सरकार,
तिरुवनन्तपुरम | अध्यक्ष |
| 2. कल्याण आयुक्त,
श्रम कल्याण संगठन, बेंगलूर | उपाध्यक्ष (पदेन) |
| 3. श्री एस.जी. मेनन,
क्षेत्रीय अधिकारी,
भारत का राष्ट्रीय फिल्म संग्रहालय,
चलचित्र कला भवन, ब्राजुथाकोड,
तिरुवनन्तपुरम | केन्द्रीय सरकार
के प्रतिनिधि |
| 4. अवर सचिव,
श्रम विभाग, केरल सरकार
तिरुवनन्तपुरम | राज्य सरकार के
प्रतिनिधि |
| 5. श्री ए.सी. पन्नाज (अप्राचिन),
3-डी, थाडाविल कोर्ट पुल्लैडी, कोचीन | प्रोड्यूसरों के
प्रतिनिधि |
| 6. श्री एस. कुमार,
भुवनाश्रम नगर, श्री. आर्.डी.सी. रोड,
चिन्नोन्निलम, तिरुवनन्तपुरम। | |
| 7. श्रीमती रोमन्ना जार्ज,
जेम्स प्रोडक्शन्स, चिन्ना कोयूडी बिल्डिंग,
अरणाथ काम रोड, कोचीन-18 | |
| 8. श्री एम. जगिधरन,
फिल्म जैब मैकेनिक, महासचिव,
के.एस.एफ.डी.सी. कर्मचारी संघ,
चिन्नोन्निल स्टूडियो काम्पलेक्स,
तिरुवनन्तपुरम, तिरुवनन्तपुरम। | सिने कर्मकारों
के प्रतिनिधि |
| 9. श्री ए. जालिज, फिल्म सम्पादन विभाग,
के.एस.एफ.डी.सी. स्ट्राफ एसो-
सिएशन, चिन्नोन्निल स्टूडियो काम्पलेक्स,
तिरुवनन्तपुरम | |
| 10. श्री के.पी.एस. उन्नीयन,
फिल्म जायनर, महासचिव,
के.एस.एफ.डी.सी., वर्क्स कांग्रेस,
चिन्नोन्निल स्टूडियो काम्पलेक्स,
तिरुवनन्तपुरम | |
| 11. महायुक्त कल्याण आयुक्त,
श्रम कल्याण संगठन, कनानूर | सचिव |

2. सहाकार समिति का मुख्यालय तिरुवनन्तपुरम में होगा।

[संख्या यू-19013/3/90-डन्यू-II (सी)]

श्री डी. नागर, अवर सचिव

New Delhi, the 27th March, 1992

S.O. 1006: --In exercise of the powers conferred by section 5 of the Cine Workers Welfare Fund Act, 1981 (33 of 1981) read with the Cine Workers Welfare Fund Rules, 1984, the Central Government hereby appoints the following persons to the Advisory Committee for the State of Kerala with effect from the date of issue of this notification, namely:—

- | | |
|--|---|
| 1. Labour Minister,
Government of Kerala,
Thiruvananthapuram. | Chairman |
| 2. Welfare Commissioner,
Labour Welfare Organisation,
Bangalore. | Vice-Chairman
(Ex-officio) |
| 3. Shri S.V. Menon,
Regional Officer,
National Film Archive of India,
Chalachitrakalabhavn, Vazhuthacaud,
Thiruvananthapuram. | Representative of
the Central
Government. |
| 4. Additional Secretary,
Labour Department,
Government of Kerala,
Thiruvananthapuram. | Representative of
the State
Government. |
| 5. Shri M.C. Punnose (Appachan),
3D-Thadvil Court,
Pulleppady, Cochin. | Representing
Producers. |
| 6. Shri S. Kumar,
Subramaniam Nagar,
CIT Road, Killippalam,
Thiruvananthapuram, | |
| 7. Rosamma George,
Jemje Productions,
Chithra Kaumudj Building,
Arangathu Cross Road,
Cochin-18. | |
| 8. Shri S. Sasidharan,
Film Lab Mechanic,
General Secretary,
K.S.F.D.C. Employees Union,
Chithranjali Studio Complex,
Thiruvallam,
Thiruvananthapuram. | Representing
Cine Workers. |
| 9. Shri A. Charles,
Film Editing Department,
K.S.F.D.C. Staff Association,
Chithranjali Studio Complex,
Thiruvananthapuram. | |
| 10. Shri K.P.S. Unnithan,
Film Joiner,
General Secretary,
K.S.F.D.C. Workers Congress,
Chithranjali Studio Complex,
Thiruvananthapuram. | |
| 11. Assistant Welfare Commissioner,
Labour Welfare Organisation,
Cannanore. | Secretary |

2. The headquarters of the Advisory Committee will be at Thiruvananthapuram.

[No. U-19012/3/90-W.11(C)]

V.D. NAGAR, Under Secy.

(रोजगार और प्रशिक्षण महानिदेशालय)

(Directorate General of Employment and Training)

नई दिल्ली, 17 मार्च, 1992

New Delhi, the 17th March, 1992

का.आ. 1007.—केंद्रीय सरकार, शिक्षा, अधिनियम, 1961 (1961 का 52) की धारा 2 के खंड (ड.) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए और केंद्रीय शिक्षता परिषद् से परामर्श करने के पश्चात्, उक्त अधिनियम के प्रयोजनों के लिए, स्नातक और तकनीकी शिक्षुओं के लिए, इंजीनियरी और प्रौद्योगिकी के निम्नलिखित विषय क्षेत्रों को, अभिहित व्यवसायों के रूप में विनिर्दिष्ट करती है, अर्थात् :-

1. फैब्रिकेशन प्रौद्योगिकी
2. परिवहन इंजीनियरी
3. कास्ट लकड़ी प्रौद्योगिकी
4. सुरक्षा इंजीनियरी
5. हथकरघा प्रौद्योगिकी
6. प्लांट इंजिनियरी/प्रौद्योगिकी
7. पोत निर्माण प्रौद्योगिकी
8. मानव निर्मित फाइबर प्रौद्योगिकी
9. औजार इंजीनियरी/प्रौद्योगिकी
10. जैव चिकित्सा इंजीनियरी
11. ऊर्जा इंजिनियरी

[फा.सं. डीजीईटी-23(14)/91-एपी]

एम.एन. वरदराजन, उप-सचिव

S.O. 1007.—In exercise of powers conferred by clause (e) of section 2 of the Apprentices Act, 1961 (52 of 1961), and after consultation with the Central Apprenticeship Council, the Central Government hereby specifies the following subject fields in engineering and technology as designated trades, for Graduate and Technical Apprentices, for the purposes of the said Act, namely :—

1. Fabrication Technology.
2. Transportation Engineering.
3. Wood/Timber Technology.
4. Safety Engineering.
5. Handloom Technology.
6. Plant Engineering/Technology.
7. Ship Building Technology.
8. Man-made Fibre Technology.
9. Tool Engineering/Technology.
10. Bio-Medical Engineering.
11. Energy Engineering.

[F. No. DGET-23(14)/91-AP.]

M. N. VARDARAJAN, Dy. Secy.

